

tice conforming to the requirements of § 722.1521 executed by any of the foregoing officials and mailed to the operator of the farm shall be deemed to meet the requirements of § 722.1521. A copy of each notice shall be kept among the permanent records of the appropriate county committee and copies thereof shall be made available in accordance with the provisions of § 722.1521 to any person who as operator, landlord, tenant, or sharecropper, is interested in the ELS cotton produced in 1958 on the farm for which the notice is given.

§ 722.1531 *Review of farm allotment—*

(a) *Review committees.* Any producer who is dissatisfied with the farm allotment established for his farm, or in the case of a new ELS cotton farm with the action of the county committee in refusing to establish a farm allotment for such farm, may, by making application in writing within 15 days after the mailing to him of the notice provided for in § 722.1521, have such allotment reviewed by a review committee composed of three farmers appointed by the Secretary pursuant to section 363 of the act. The review committee shall, upon proper application, review the action of the county committee. In all cases, the review committee shall consider only such matters as under the applicable provisions of the act and the regulations in this part, are required or permitted to be considered by the county committee in establishing the allotment. Unless such application is made within 15 days, the original determination of the farm allotment shall be final. All applications for review shall be made in accordance with the marketing quota review regulations issued by the Secretary, a copy of which may be obtained from the county committee.

(b) *Court review.* If the producer is dissatisfied with the determination of the review committee, he may, within 15 days after notice of such determination is mailed to him by registered mail, institute proceedings against the review committee to have the determination of the review committee reviewed by a court in accordance with section 365 of the act.

NOTE: The reporting and record keeping requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

**Part 723—Cigar-Filler Tobacco, Cigar Binder Tobacco, and Cigar-Filler and Binder Tobacco<sup>1</sup> [Revised]**

NOTE: Following are FEDERAL REGISTER citations to proclamations, determinations, and regulations for previous years, issued for the program year indicated, which are not included herein: 1951: 15 F. R. 7203; 15 F. R. 8215; 15 F. R. 8732; 16 F. R. 67; 16 F. R. 5149; 16 F. R. 5314. 1952: 16 F. R. 6170; 16 F. R. 7502; 16 F. R. 11474; 16 F. R. 13117. 1953: 17 F. R. 6619; 17 F. R. 6681; 17 F. R. 6758; 17 F. R. 6809; 17 F. R. 8892; 17 F. R. 10901; 18 F. R. 925; 18 F. R. 3303. 1954: 18 F. R. 8822; 18 F. R. 3994; 18 F. R. 4047; 18 F. R. 6443; 18 F. R. 8474; 19 F. R. 4127. 1955: 19 F. R. 3543; 19 F. R. 7928; 19 F. R. 9365; 20 F. R. 5765. 1956: 20 F. R. 6059; 20 F. R. 6274; 20 F. R. 8845; 21 F. R. 667; 21 F. R. 3868; 21 F. R. 6254; 21 F. R. 7563. 1957: 21 F. R. 7202, 21 F. R. 9398, 22 F. R. 367, 22 F. R. 2035, 22 F. R. 4634.

**Subpart—Cigar-Filler (Type 41) Tobacco Marketing Quota Regulations, 1959–60 Marketing Year**

GENERAL

Sec.	
723.872	Definitions.
723.873	Extent of calculations and rule of fractions.
723.874	Instructions and forms.
723.875	Applicability of §§ 723.872 to 723.888.

HARVESTED ACREAGE, ACREAGE ALLOTMENTS AND NORMAL YIELDS FOR OLD FARMS

723.876	Determination of harvested acreage for old farms.
723.877	Determination of 1959 preliminary acreage allotments for old farms.
723.878	1959 old farm tobacco acreage allotment.
723.879	Adjustment of acreage allotments for old farms.
723.880	Reallocation of allotments determined for farms acquired by an agency having right of eminent domain.
723.881	Farms divided or combined.
723.882	Determination of normal yields.

ACREAGE ALLOTMENTS AND NORMAL YIELDS FOR NEW FARMS

723.883	Determination of acreage allotments for new farms.
723.884	Time for filing application.
723.885	Determination of normal yields.

MISCELLANEOUS

723.886	Determination of acreage allotments and normal yields for farms returned to agricultural production. <sup>2</sup>
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<sup>1</sup> Headnote amended, 22 F. R. 2035, Mar. 28, 1957.

<sup>2</sup> Revoked.

Sec.

- 723.887 Approval of determinations made under §§ 723.872 to 723.885.  
723.888 Application for review.

**Subpart—Proclamations and Determinations, 1958–59 Marketing Year**

- 723.902 Findings and determinations with respect to the national marketing quota for cigar-binder (types 51 and 52) tobacco for the marketing year beginning October 1, 1958.  
723.903 Findings and determinations with respect to the national marketing quota for cigar-filler and cigar-binder tobacco, types 42, 43, 44, 53, 54 and 55, for the marketing year beginning October 1, 1958.

**Subpart—Tobacco Marketing Quota Regulations, 1958–59 Marketing Year**

**GENERAL**

- 723.912 Definitions.  
723.913 Extent of calculations and rule of fractions.  
723.914 Instructions and forms.  
723.915 Applicability of §§ 723.912 to 723.928.

**ACREAGE ALLOTMENTS AND NORMAL YIELDS FOR OLD FARMS**

- 723.916 Determination of 1958 preliminary acreage allotments for old farms.  
723.917 1958 old farm tobacco acreage allotment.  
723.918 Adjustment of acreage allotments for old farms, corrections of errors made in acreage allotments for old farms, and allotments for overlooked old farms.  
723.919 Reduction of acreage allotment for violation of the marketing quota regulations for a prior marketing year.  
723.920 Reallocation of allotments released from farms removed from agricultural production or shifted from production of cigar-binder (types 51 and 52) tobacco and cigar-filler and binder (types 42, 43, 44, 53, 54 and 55) tobacco to production of shade-grown cigar-leaf (type 61) wrapper tobacco.  
723.921 Farms divided or combined.  
723.922 Determination of normal yields for farms.

**ACREAGE ALLOTMENTS AND NORMAL YIELDS FOR NEW FARMS**

- 723.923 Determination of acreage allotments for new farms.  
723.924 Time for filing application.  
723.925 Determination of normal yields for new farms.

**MISCELLANEOUS**

Sec.

- 723.926 Determination of acreage allotments and normal yields for farms returned to agricultural production or shifted from production of shade-grown cigar-leaf (type 61) wrapper tobacco to production of cigar-binder (types 51 and 52) tobacco and cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco.  
723.927 Approval of determinations made under §§ 723.912 to 723.926, and notices of farm acreage allotments.  
723.928 Application for review.

**Subpart—Cigar-Binder (Types 51 and 52) Tobacco, and Cigar-Filler and Binder (Types 42, 43, 44, 53, 54, and 55) Tobacco Marketing Quota Regulations, 1958–59 Marketing Year**

**GENERAL**

- 723.931 Definitions.  
723.932 Instructions and forms.  
723.933 Extent of calculations and rule of fractions.

**IDENTIFICATION AND LOCATION OF FARMS AND DETERMINATION OF ACREAGE**

- 723.934 Identification and location of farms.  
723.935 Determination of tobacco acreage.

**FARM MARKETING QUOTAS AND MARKETING CARDS**

- 723.936 Amount of farm marketing quota.  
723.937 Transfer of farm marketing quotas.  
723.938 Issuance of marketing cards.  
723.939 Person authorized to issue cards.  
723.940 Rights of producers in marketing cards.  
723.941 Successors in interest.  
723.942 Invalid cards.  
723.943 Report of misuse of marketing card.

**MARKETING OR OTHER DISPOSITION OF TOBACCO AND PENALTIES**

- 723.944 Extent to which marketings from a farm are subject to penalty.  
723.945 Disposition of excess tobacco.  
723.946 Identification of marketings.  
723.947 Rate of penalty.  
723.948 Persons to pay penalty.  
723.949 Marketings deemed to be excess tobacco.  
723.950 Payment of penalty.  
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**RECORDS AND REPORTS**

- 723.952 Producer's records and reports.  
723.953 Buyer's records.  
723.954 Buyer's reports.  
723.955 Buyers not exempt from regular records and reports.  
723.956 Records and reports of truckers and persons sorting, stemming, packing, or otherwise processing tobacco.

## Chapter VII—CSS, Marketing Quotas, Acreage Allotments § 723.872

Sec.

- 723.957 Separate records and reports from persons engaged in more than one business.
- 723.958 Failure to keep records or make reports.
- 723.959 Additional records and reports to Director.
- 723.960 Examination of records and reports.
- 723.961 Length of time records and reports to be kept.
- 723.962 Information confidential.

### Subpart—Marketing Quota Regulations, 1959–60 Marketing Year

#### GENERAL

- 723.1012 Definitions.
- 723.1013 Extent of calculations and rule of fractions.
- 723.1014 Instructions and forms.
- 723.1015 Applicability of §§ 723.1012 to 723.1028.

#### ACREAGE ALLOTMENTS AND NORMAL YIELDS FOR OLD FARMS

- 723.1016 Determination of 1959 preliminary acreage allotments for old farms.
- 723.1017 1959 old farm tobacco acreage allotments.
- 723.1018 Adjustment of acreage allotments for old farms, corrections of errors made in acreage allotments for old farms, and allotments for overlooked old farms.
- 723.1019 Reduction of acreage allotment for violation of the marketing quota regulations for prior marketing year.
- 723.1020 Reallocation of allotments determined for farms acquired by an agency having right of eminent domain or shifted from production of cigar-binder (types 51 and 52) tobacco and cigar-filler and binder (types 42, 43, 44, 53, 54 and 55) tobacco to production of shade-grown cigar leaf (type 61) wrapper tobacco.
- 723.1021 Farms divided or combined.
- 723.1022 Determination of normal yields for farms.

#### ACREAGE ALLOTMENTS AND NORMAL YIELDS FOR NEW FARMS

- 723.1023 Determination of acreage allotments for new farms.
- 723.1024 Time for filing application.
- 723.1025 Determination of normal yields for new farms.

#### MISCELLANEOUS

- 723.1026 Determination of acreage allotments and normal yields for farms shifted from production of shade-grown cigar-leaf (type 61) wrapper tobacco to production of cigar-binder (types 51 and 52) tobacco or cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco.

Sec.

- 723.1027 Approval of determinations made under §§ 723.1012 to 723.1026, and notices of farm acreage allotments.
- 723.1028 Application for review.

### SUBPART—CIGAR-FILLER (TYPE 41) TOBACCO MARKETING QUOTA REGULATIONS, 1959–60 MARKETING YEAR

**AUTHORITY:** §§ 723.872 to 723.888 issued under sec. 375, 52 Stat. 66, as amended; 7 U. S. C. 1375. Interpret or apply secs. 301, 313, 363, 52 Stat. 38, as amended, 47, as amended, 63, 69 Stat. 684; 7 U. S. C. 1301, 1313, 1363.

**SOURCE:** §§ 723.872 to 723.888 contained in 1023—Allotments—Cigar-Filler (Type 41) Tobacco—59–1, 23 F. R. 5327, July 15, 1958, except as otherwise noted.

#### GENERAL

§ 723.872 *Definitions.* As used in §§ 723.872 to 723.888, and in all instructions, forms, and documents in connection therewith, the words and phrases defined in this section shall have the meanings herein assigned to them unless the context or subject matter otherwise requires.

(a) The definitions of the following terms as set forth in Part 719 of this chapter shall apply in §§ 723.872 to 723.888: "Combination", "community committee", "county committee", "State committee", "county", "county office manager", "cropland", "Department", "Deputy Administrator", "division", "farm", "operator", "person", "producer", "reconstitution", "Secretary", "soil bank contract", "State administrative officer", and "subdivision".

(b) "Director" means the Director, or Acting Director, Tobacco Division, Commodity Stabilization Service, United States Department of Agriculture.

(c) "New farm" means a farm on which tobacco will be harvested in 1959 for the first time since 1953. If in accordance with applicable law and regulations, no 1955 or 1956 tobacco acreage allotment was determined for the farm, any acreage of tobacco harvested in 1955 or 1956, respectively, shall not be considered as harvested acreage in determining whether the farm is a new farm. The term "harvested" as used in this paragraph shall include acreage preserved as provided by section 377 of the Agricultural Adjustment Act of 1938, as amended, and acreage within the meaning of "harvested acreage" as provided in § 723.876.

(d) "Old farm" means a farm on which tobacco was harvested in one or more of the five years 1954 through 1958. If in accordance with applicable law and regulations, no 1955 or 1956 tobacco acreage allotment was determined for the farm, any acreage of tobacco harvested in 1955 or 1956, respectively, shall not be considered as harvested acreage in determining whether the farm is an old farm. The term "harvested" as used in this paragraph shall include acreage preserved as provided by section 377 of the Agricultural Adjustment Act of 1938, as amended, and acreage within the meaning of "harvested acreage" as provided in § 723.876.

(e) "Community cropland factor" means that percentage determined by dividing the total cropland for all old farms in the community in 1959 into the total of the 1959 tobacco acreage allotment for such old farms: *Provided*, That (1) if it is determined that the cropland factors for all communities in the county are substantially the same, the county committee, with the approval of the State committee, may consider the entire county as one community, and (2) if there is only one farm in the county on which tobacco is grown, the community cropland factors of the nearest community in which tobacco is grown shall be used in determining the acreage indicated by cropland.

[Paragraph (e) amended, 23 F. R. 5708, July 30, 1958]

(f) "Acreage indicated by cropland" means that acreage determined by multiplying the number of acres of cropland in the farm by the community cropland factor.

(g) "Tobacco" means cigar-filler tobacco, type 41, that type of cigar-leaf tobacco commonly known as Pennsylvania Seedleaf, Pennsylvania Broadleaf, Pennsylvania filler type, or Lancaster and York County filler type, and produced principally in Lancaster County, Pennsylvania, and the adjoining counties, as classified in Service and Regulatory Announcement No. 118 (Part 30 of this title) of the Bureau of Agricultural Economics of the United States Department of Agriculture. Tobacco which has the same characteristics and corresponding qualities, colors, and lengths shall be treated as one type, regardless of any factors of historical or geographical nature which cannot be determined by examina-

tion of the tobacco. The term "tobacco" shall include all leaves harvested including trash.

§ 723.873 *Extent of calculations and rule of fractions.* All acreage allotments shall be rounded to the nearest one-hundredth acre. The rule of fractions will be to round upward fractions of more than five-thousandths and to round downward fractions of five-thousandths or less (i. e., 0.0050 would be 0.00 and 0.0051 would be 0.01).

§ 723.874 *Instructions and forms.* The Director, Tobacco Division, Commodity Stabilization Service, shall cause to be prepared and issued such forms as are necessary and shall cause to be prepared such instructions for internal management as are necessary for carrying out §§ 723.872 to 723.888. The forms and instructions shall be approved by, and the instructions shall be issued by, the Deputy Administrator for Production Adjustment of the Commodity Stabilization Service.

§ 723.875 *Applicability of §§ 723.872 to 723.888.* Sections 723.872 to 723.888 shall govern the establishment of farm acreage allotments and normal yields for tobacco in connection with farm marketing quotas for the marketing year beginning October 1, 1959. The applicability of §§ 723.872 to 723.888 is contingent upon the proclamation of national marketing quotas for cigar-filler tobacco for the three marketing years beginning October 1, 1959, by the Secretary of Agriculture, and the approval thereof by growers voting in a referendum pursuant to section 312 of the Agricultural Adjustment Act of 1938, as amended.

#### HARVESTED ACREAGE, ACREAGE ALLOTMENTS AND NORMAL YIELDS FOR OLD FARMS

§ 723.876 *Determination of harvested tobacco acreage for old farms.* The county committee shall determine from the best available data the acreage of tobacco harvested on each old tobacco farm for each of the years 1954-58. Data for making such determinations shall be taken from county office records, producers' sales records, producers' reports, and estimates of other persons having knowledge of tobacco produced on the farm. In determining the harvested acreage for any year, due allowance shall be made for drought, flood, hail, other abnormal weather conditions and plant bed and other diseases. The

harvested acreage for 1955 and 1956 on a farm which is in excess of the tobacco acreage allotment for such farm shall not be considered as harvested acreage. Also, the 1956 harvested acreage shall be considered to equal the 1956 allotment if the farm owner or operator notified the county committee not later than August 1, 1956, that he desired to preserve such allotment. If a conservation reserve contract was in effect on the farm in 1956, the harvested acreage for 1956 shall include the acreage by which the 1956 allotment was underharvested, not to exceed the acreage in the conservation reserve contract.

§ 723.877 *Determination of 1959 preliminary acreage allotments for old farms.* (a) The preliminary acreage allotment for an old farm shall be the largest of the following:

(1) The average acreage of tobacco harvested on the farm in the five years 1954-58, except that if the five-year average is in excess of the three-year, 1956-58 average, it shall be reduced to the larger of such three-year average or 50 percent of the five-year average;

(2) 80 percent of the average acreage of tobacco harvested on the farm in the past three years 1956-58, or

(3) 45 percent of the acreage of tobacco harvested on the farm in 1958: *Provided*, That the preliminary acreage allotment for any old farm shall not be less than 0.01 acre.

(b) Notwithstanding the provisions of paragraph (a) of this section, but subject to the limitations imposed under § 719.12 of this chapter, the 1959 preliminary allotment for a farm acquired in 1950 or subsequent thereto by an agency having the right of eminent domain shall be the 1956 allotment as computed for the farm, or if no 1956 allotment was or may be computed for the farm and tobacco was grown thereon in 1957 or 1958, the 1959 preliminary allotment for the farm shall be determined in accordance with paragraph (a) of this section.

[Paragraph (b) added by 1023—Allotments—(Cigar-Filler (Type 41) Tobacco—59)—1, 23 F. R. 7877, Oct. 11, 1958]

§ 723.878 *1959 old farm tobacco acreage allotment.* The preliminary allotments calculated for all old farms in the State pursuant to § 723.877 shall be adjusted uniformly so that the total of such allotments plus the acreage available for adjusting acreage allotments for old

farms pursuant to § 723.879 shall not exceed the State acreage allotment: *Provided*, That if the acreage allotment so determined for any farm (except farms operated, controlled, or directed by a person who also operates, controls, or directs another farm on which tobacco is produced) is less than that acreage which, with the normal yield for the farm, would produce 2,400 pounds of tobacco, then such acreage allotment shall be increased to the smaller of (a) 120 percent thereof, or (b) that acreage which, with the normal yield for the farm, would produce 2,400 pounds of tobacco: *And provided further*, That if in the calendar year 1958 more than one crop of tobacco was grown from (1) the same tobacco plants, or (2) different tobacco plants, and is harvested for marketing from the same acreage of a farm, the 1959 acreage allotment established for such farm shall be reduced by an amount equivalent to the acreage from which more than one crop of tobacco was so grown and harvested; in case the allotment is transferred through a State pool to another farm under § 723.880 before the allotment reduction can be made effective on the farm on which the tobacco was grown, the allotment first established for the farm to which it is so transferred shall be reduced as provided herein, or in case the farm is divided or combined with other land before the allotment reduction can be made effective on the farm on which the tobacco was grown, the allotments for the divided farms or the allotment for the combined farm shall be reduced as provided herein.

§ 723.879 *Adjustment of acreage allotments for old farms.* Notwithstanding the limitations contained in § 723.878, the farm acreage allotment for an old farm may be increased if the community and county committees find (with approval of the State committee) that such increase is necessary to establish an allotment for such farm which is fair and equitable in relation to the allotments for other old farms in the community, on the basis of the past acreage of tobacco, making due allowances for drought, flood, hail and other abnormal weather conditions, plant bed, and other diseases; land, labor, and equipment available for the production of tobacco; crop rotation practices; and the soil and other physical factors affecting the production of tobacco. The acreage available for increasing allotments

under this section shall not exceed two percent of the 1959 State acreage allotment.

§ 723.880 *Reallocation of allotments determined for farms acquired by an agency having right of eminent domain.* The determination of allotments for farms acquired by an agency having the right of eminent domain, the transfer of such allotments to a pool, and reallocation from the pool shall be administered as provided in § 719.12 of this chapter, except as provided in paragraph (b) of § 723.877.

[1023—Allotments—(Cigar-Filler (Type 41) Tobacco—59)—1, 23 F. R. 7877, Oct. 11, 1958]

§ 723.881 *Farms divided or combined.* Allotments for farms reconstituted for 1959 shall be determined in accordance with Part 719 of this chapter.

§ 723.882 *Determination of normal yields.* The normal yield for any old farm shall be that yield which the county committee determines is normal for the farm taking into consideration (a) the yields obtained on the farm during the years 1946–57 for which data are available; (b) the soil and other physical factors affecting the production of tobacco on the farm; and (c) the yields obtained on other farms in the locality which are similar with respect to such factors.

#### ACREAGE ALLOTMENTS AND NORMAL YIELDS FOR NEW FARMS

§ 723.883 *Determination of acreage allotments for new farms.* (a) The acreage allotment, other than an allotment made under § 723.880, for a new farm shall be that acreage which the county committee determines is fair and reasonable for the farm, taking into consideration the past tobacco experience of the farm operator; the land, labor, and equipment available for the production of tobacco; crop rotation practices; and the soil and other physical factors affecting the production of tobacco: *Provided*, That the acreage allotment so determined shall not exceed 75 percent of the average of the allotments established for two or more but not more than five old farms in the community which are similar with respect to land, labor, and equipment available for the production of tobacco, crop rotation practices, and the soil and other physical factors affecting the production of tobacco: *And provided further*, That if the acreage

planted to tobacco on a new tobacco farm is less than the tobacco acreage allotment otherwise established for the farm pursuant to this section, such allotment shall be automatically reduced to the acreage planted to tobacco on the farm.

(b) Notwithstanding any other provisions of this section, a tobacco acreage allotment shall not be established for any new farm unless each of the following conditions has been met:

(1) The farm operator shall have had experience in cigar-filler (type 41) tobacco and such experience shall consist of the preparation of the plant bed and extend through preparation of the tobacco for market: *Provided*, That production of tobacco on a farm in 1955 or 1956 for which in accordance with applicable law and regulations no 1955 or 1956 tobacco acreage allotment, respectively, was determined shall not be deemed such experience for any producer.

(2) The farm covered by the application shall be the only farm owned or operated by the farm operator for which a cigar-filler (type 41) tobacco acreage allotment is established for the 1959–60 marketing year.

(3) The farm or any portion thereof shall not have been a part of another farm during any of the years 1954–56 for which an old farm tobacco acreage allotment was determined, except that this provision shall not of itself make a farm ineligible for a new farm allotment (i) if it is the same farm or a portion of the same farm for which an old farm allotment was cancelled since 1953 due to no tobacco being produced thereon for five years, or (ii) if it was a portion of an old farm during any of the years 1954–56 and at time of division of the farm contained cropland but received no part of the allotment due (a) to division of the allotment on a contribution basis, or (b) to agreement and approval of all interested parties as provided in regulations governing divisions and combinations of allotments.

(c) The acreage allotments established as provided in this section shall be subject to such downward adjustment as is necessary to bring such allotments in line with the total acreage available for allotment to all new farms. One percent of the 1959 national marketing quota shall, when converted to an acreage allotment by the use of the national aver-

age yield, be available for establishing allotments for new farms. The national average yield shall be the average of the several State yields used in converting the State marketing quotas into State acreage allotments.

§ 723.884 *Time for filing application.* An application for a new farm allotment shall be filed with the ASC county office not later than March 11, 1959, unless the farm operator was discharged from the armed services subsequent to December 31, 1958; in which case such application shall be filed within a reasonable period prior to planting tobacco on the farm.

§ 723.885 *Determination of normal yields.* The normal yield for a new farm shall be that yield per acre which the county committee determines is normal for the farm as compared with yields for other farms in the locality on which the soil and other physical factors affecting the production of tobacco are similar.

#### MISCELLANEOUS

§ 723.886 *Determination of acreage allotments and normal yields for farms returned to agricultural production.*

[Revoked by 1023—Allotments—(Cigar-Filler (Type 41) Tobacco—59)—1, 23 F. R. 7877, Oct. 11, 1958; 23 F. R. 8947, Nov. 18, 1958]

§ 723.887 *Approval of determinations made under §§ 723.872 to 723.885.* (a) All allotments and yields shall be reviewed by or on behalf of the State committee and the State committee may revise or require revision of any determinations made under §§ 723.872 to 723.885. All acreage allotments and yields shall be approved by or on behalf of the State committee, and no official notice of acreage allotment shall be mailed to a grower until such allotment has been approved by or on behalf of the State committee.

(b) An official notice of the farm acreage allotment and marketing quota shall be mailed to the operator of each farm shown by the records of the county committee to be entitled to an allotment. The notice to the operator of the farm shall constitute notice to all persons who as operator, landlord, tenant, or sharecropper are interested in the farm for which the allotment is established. All such notices shall bear the actual or facsimile signature of a member of the county committee. The facsimile signature may be affixed by the county committeemen or an employee of the county

office. Insofar as practical all allotment notices shall be mailed in time to be received prior to the date of any tobacco marketing quota referendum. A copy of such notice, containing thereon the date of mailing, shall be maintained for not less than 30 days in a conspicuous place in the county office and shall thereafter be kept available for public inspection in the office of the county committee. A copy of such notice certified as true and correct shall be furnished without charge to any person interested in the farm in respect to which the allotment is established.

(c) If the records of the county committee indicate that the allotment established for any farm may be changed because of (1) removal of the farm from agricultural production, (2) division of the farm, or (3) combination of the farm, no notice of such allotment shall be mailed until the proper allotment is determined for the farm by the county committee with the approval of the State committee: *Provided*, That the notice of allotment for any farm shall, insofar as practicable, be mailed no later than May 1, 1959.

(d) If the county committee determines with the approval of the State administrative officer that the official written notice of the farm acreage allotment issued for any farm erroneously stated the acreage allotment to be larger than the correct allotment, and the county committee also determines that the error was not so gross as to place the operator on notice thereof, and that the operator, relying upon such notice and acting in good faith, planted an acreage of tobacco in excess of the correct farm acreage allotment, the acreage allotment shown on the erroneous notice shall be deemed to be the tobacco acreage allotment for the farm for all purposes in connection with the tobacco marketing quota program for the 1959-60 marketing year, provided the acreage of tobacco harvested from the farm is not in excess of the acreage shown on the erroneous notice. In the event the acreage of tobacco harvested exceeds the farm acreage allotment shown on the erroneous notice, the acreage allotment for the farm as correctly determined and shown on a revised notice of farm acreage allotment and marketing quota shall be the tobacco acreage allotment for the farm for all purposes in connection with

the tobacco marketing quota program for the 1959-60 marketing year.

**CODIFICATION:** In § 723.887, the reference to "§ 723.886" in the section headline and in paragraph (a) was changed to "§ 723.885," by 1023 Allotments—(Cigar-Filler (Type 41) Tobacco—59)—1, 23 F. R. 7877, Oct. 11, 1958.

§ 723.888 *Application for review.* Any producer who is dissatisfied with the farm acreage allotment and marketing quota established for his farm, may, within fifteen days after mailing of the official notice of the farm acreage allotment and marketing quota, file application with the ASC county office to have such allotment reviewed by a review committee. The procedures governing the review of farm acreage allotments and marketing quotas are contained in the regulations issued by the Secretary (Part 711 of this chapter) which are available at the ASC county office.

#### SUBPART—PROCLAMATIONS AND DETERMINATIONS, 1958-59 MARKETING YEAR

**AUTHORITY:** §§ 723.902 and 723.903 issued under sec. 375, 52 Stat. 66, as amended; 7 U. S. C. 1375. Interpret of apply secs. 301, 312, 313, 52 Stat. 88, as amended, 46, as amended, 47, as amended; 7 U. S. C. 1301, 1312, 1313.

**SOURCE:** §§ 723.902 and 723.903 appear at 23 F. R. 637, Jan. 31, 1958.

§ 723.902 *Findings and determinations with respect to the national marketing quota for cigar-binder (types 51 and 52) tobacco for the marketing year beginning October 1, 1958*<sup>1</sup>—(a) *Reserve supply level.* The reserve supply level for cigar-binder (types 51 and 52) tobacco is 57,800,000 pounds, calculated, as provided in the Agricultural Adjustment Act of 1938, as amended, from a normal year's domestic consumption of 18,500,000 pounds and a normal year's exports of 2,500,000 pounds.

(b) *Total supply.* The total supply of cigar-binder (types 51 and 52) tobacco for the marketing year beginning October 1, 1957 is 54,000,000 pounds consisting of carryover of 46,000,000 pounds and estimated 1957 production of 8,000,000 pounds.

(c) *Carryover.* The estimated carryover of cigar-binder (types 51 and 52) tobacco at the beginning of the marketing year for such tobacco beginning October 1, 1958, is 36,500,000 pounds calculated by subtracting the estimated

<sup>1</sup> Rounded to the nearest tenth of a million pounds.

disappearance for the marketing year beginning October 1, 1957 of 17,500,000 pounds from the total supply of such tobacco.

(d) *National marketing quota.* The amount of cigar-binder (types 51 and 52) tobacco which will make available during the marketing year beginning October 1, 1958, a supply of cigar-binder (types 51 and 52) tobacco equal to the reserve supply level of such tobacco is 21,300,000 pounds, and a national marketing quota of such amount is hereby announced.

(e) *Apportionment of the quota.* The national marketing quota for cigar-binder (types 51 and 52) tobacco is hereby apportioned among the several States pursuant to section 313 (a) of the Agricultural Adjustment Act of 1938, as amended, and converted into State acreage allotments in accordance with section 313 (g) of the act as follows:

State:	Acreage allotment
Connecticut -----	7,841
Massachusetts -----	4,095
New Hampshire -----	1
New York -----	1
Vermont -----	5
Reserve <sup>1</sup> -----	121

<sup>1</sup> Acreage reserved for establishing allotments for new farms.

§ 723.903 *Findings and determinations with respect to the national marketing quota for cigar-filler and binder (types 42, 43, 44, 53, 54 and 55) tobacco for the marketing year beginning October 1, 1958*<sup>1</sup>—(a) *Reserve supply level.* The reserve supply level for cigar-filler and binder (types 42, 43, 44, 53, 54 and 55) tobacco is 99,400,000 pounds, calculated, as provided in the Agricultural Adjustment Act of 1938, as amended, from a normal year's domestic consumption of 34,000,000 pounds and a normal year's exports of 700,000 pounds.

(b) *Total supply.* The total supply of cigar-filler and binder (types 42, 43, 44, 53, 54 and 55) tobacco for the marketing year beginning October 1, 1957 is 101,700,000 pounds consisting of carryover of 75,800,000 pounds and estimated 1957 production of 25,900,000 pounds.

(c) *Carryover.* The estimated carryover of cigar-filler and binder (types 42, 43, 44, 53, 54 and 55) tobacco at the beginning of the marketing year for such tobacco beginning October 1, 1958 is 67,900,000 pounds calculated by subtracting the estimated disappearance for the



marketing year beginning October 1, 1957 of 33,800,000 pounds from the total supply of such tobacco.

(d) *National marketing quota.* The amount of cigar-filler and binder (types 42, 43, 44, 53, 54 and 55) tobacco which will make available during the marketing year beginning October 1, 1958, a supply of cigar-filler and binder tobacco equal to the reserve supply level of such tobacco is 31,500,000 pounds, and a national marketing quota of such amount is hereby announced. It is determined, however, that a national marketing quota in the amount of 31,500,000 pounds would result in undue restriction of marketings during the 1958-59 marketing year and such amount is hereby increased by 20 percent. Therefore, the amount of the national marketing quota for cigar-filler and binder (types 42, 43, 44, 53, 54 and 55) tobacco in terms of the total quantity of such tobacco which may be marketed during the marketing year beginning October 1, 1958 is 37,800,000 pounds.

(e) *Apportionment of the quota.* The national marketing quota for cigar-filler and binder (types 42, 43, 44, 53, 54 and 55) tobacco is hereby apportioned among the several States pursuant to section 313 (a) of the Agricultural Adjustment Act of 1938, as amended, and converted into State acreage allotments in accordance with section 313 (g) of the act as follows:

State:	Acreage allotment
Illinois -----	7
Indiana -----	1
Iowa -----	8
Minnesota -----	242
New York -----	99
Ohio -----	5,074
Pennsylvania -----	255
Wisconsin -----	17,971
Reserve <sup>1</sup> -----	239

<sup>1</sup> Acreage reserved for establishing allotments for new farms.

#### SUBPART—TOBACCO MARKETING QUOTA REGULATIONS, 1958-59 MARKETING YEAR

**AUTHORITY:** §§ 723.912 to 723.928 issued under sec. 375, 52 Stat. 66, as amended; 7 U. S. C. 1375. Interpret or apply secs. 301, 313, 363, 52 Stat. 38, as amended, 47, as amended, 63, as amended; 7 U. S. C. 1301, 1313, 1363.

**SOURCE:** §§ 723.912 to 723.928 contained in 1023—Allotments—(Cigar-Binder and Cigar-Filler and Binder Tobacco, 22 F. R. 4351, June 20, 1957; 22 F. R. 4847, July 10, 1957, except as otherwise noted.

#### GENERAL

§ 723.912 *Definitions.* As used in §§ 723.912 to 723.928, and in all instructions, forms, and documents in connection therewith, the words and phrases defined in this section shall have the meanings herein assigned to them unless the context or subject matter otherwise requires.

(a) "Committees": The definition of this term as set forth in Part 718 of this chapter shall apply in §§ 723.912 to 723.928.

(b) "County office manager": The definition of this term as set forth in Part 718 of this chapter shall apply in §§ 723.912 to 723.928.

(c) "Department": The definition of this term as set forth in Part 718 of this chapter shall apply in §§ 723.912 to 723.928.

(d) "Deputy Administrator": The definition of this term as set forth in Part 718 of this chapter shall apply in §§ 723.912 to 723.928.

(e) "Director" means the Director, Tobacco Division, Commodity Stabilization Service, United States Department of Agriculture.

(f) "Farm": The definition of this term as set forth in Part 718 of this chapter shall apply in §§ 723.912 to 723.928.

(g) "New farm" means a farm on which tobacco will be harvested in 1958 for the first time since 1952. If in accordance with applicable law and regulations, no 1955, 1956 or 1957 tobacco acreage allotment was determined for the farm, any acreage of tobacco harvested in 1955, 1956 or 1957, respectively, shall not be considered as harvested acreage in determining whether the farm is a new farm. The term "harvested" as used in this paragraph shall include acreage preserved as provided by section 377 of the Agricultural Adjustment Act of 1938, as amended, and acreage within the meaning of "harvested acreage" as provided in § 723.916 (c).

(h) "Old farm" means a farm on which tobacco was harvested in one or more of the five years 1953 through 1957. If in accordance with applicable law and regulations, no 1955, 1956 or 1957 tobacco acreage allotment was determined for the farm, any acreage of tobacco harvested in 1955, 1956 or 1957 respectively, shall not be considered as harvested acreage in determining whether the farm

is an old farm. The term "harvested" as used in this paragraph shall include acreage preserved as provided by section 377 of the Agricultural Adjustment Act of 1938, as amended, and acreage within the meaning of "harvested acreage" as provided in paragraph (c) of § 723.916. [Paragraphs (g) and (h) amended by 1023 (Cigar-Binder and Cigar-Filler and Binder Tobacco—58)—1, Amdt. 1, 22 F. R. 8101, Oct. 12, 1957]

(i) "Cropland": The definition of this term as set forth in Part 718 of this chapter shall apply in §§ 723.912 to 723.928.

(j) "Community cropland factor" means that percentage determined by dividing the total cropland for all old farms in the community in 1957 into the total of the 1957 tobacco acreage allotment for such old farms: *Provided*, That (1) if it is determined that the cropland factors for all communities in the county are substantially the same, the county committee, with the approval of the State committee, may consider the entire county as one community, and (2) if there is only one farm in the county on which tobacco is grown, the community cropland factors of the nearest community in which tobacco is grown shall be used in determining the acreage indicated by cropland.

(k) "Acreage indicated by cropland" means that acreage determined by multiplying the number of acres of cropland in the farm by the community cropland factor.

(l) "Operator": The definition of this term as set forth in Part 718 of this chapter shall apply in §§ 723.912 to 723.928.

(m) "Persons": The definition of this term as set forth in Part 718 of this chapter shall apply in §§ 723.912 to 723.928.

(n) "Producer": The definition of this term as set forth in Part 718 of this chapter shall apply in §§ 723.912 to 723.928.

(o) "Secretary": The definition of this term as set forth in Part 718 of this chapter shall apply in §§ 723.912 to 723.928.

(p) "State administrative officer": The definition of this term as set forth in Part 718 of this chapter shall apply in §§ 723.912 to 723.928.

(q) "Tobacco" means:

(1) Type 42 tobacco, that type of cigar-leaf tobacco commonly known as Gabhardt, Ohio Seedleaf, or Ohio Broadleaf,

produced principally in the Miami Valley section of Ohio and extending into Indiana;

(2) Type 43 tobacco, that type of cigar-leaf tobacco commonly known as Zimmer, Spanish, or Zimmer Spanish, produced principally in the Miami Valley section of Ohio and extending into Indiana;

(3) Type 44 tobacco, that type of cigar-leaf tobacco commonly known as Dutch, Shoestring Dutch, or Little Dutch, produced principally in the Miami Valley section of Ohio;

(4) Type 51 tobacco, that type of cigar-leaf tobacco commonly known as Connecticut Valley Broadleaf or Connecticut Broadleaf, produced primarily in the Valley area of Connecticut;

(5) Type 52 tobacco, that type of cigar-leaf tobacco commonly known as Connecticut Valley Havana Seed, or Havana Seed of Connecticut and Massachusetts, produced primarily in the Connecticut Valley area of Massachusetts and Connecticut;

(6) Type 53 tobacco, that type of cigar-leaf tobacco commonly known as York State Tobacco, or Havana Seed of New York and Pennsylvania, produced principally in the Big Flats section of New York, extending into Pennsylvania and in the Onondaga section of New York State;

(7) Type 54 tobacco, that type of cigar-leaf tobacco commonly known as southern Wisconsin cigar-leaf or southern Wisconsin binder type, produced principally south and east of the Wisconsin River; or

(8) Type 55 tobacco, that type of cigar-leaf tobacco commonly known as Northern Wisconsin cigar-leaf or Northern Wisconsin binder type, produced principally north and west of the Wisconsin River, as classified in Service and Regulatory Announcement No. 118 (Part 30 of this title) of the Bureau of Agricultural Economics of the United States Department of Agriculture, or all such types of tobacco as indicated by the context. Tobacco which has the same characteristics and corresponding qualities, colors, and lengths shall be treated as one type, regardless of any factors of historical or geographical nature which cannot be determined by an examination of the tobacco. The term "tobacco" shall include all leaves harvested, including trash.

§ 723.913 *Extent of calculations and rule of fractions.* All acreage allotments shall be rounded to the nearest one-hundredth acre. The rule of fractions will be to round upward fractions of more than five-thousandths and to round downward fractions of five-thousandths or less (i. e., 0.0050 would be 0.00 and 0.0051 would be 0.01).

§ 723.914 *Instructions and forms.* The director shall cause to be prepared and issued such forms as are necessary, and shall cause to be prepared such instructions for internal management as are necessary for carrying out §§ 723.912 to 723.928. The forms and instructions shall be approved by, and the instructions shall be issued by, the Deputy Administrator for Production Adjustment, Commodity Stabilization Service.

§ 723.915 *Applicability of §§ 723.912 to 723.928.* Sections 723.912 to 723.928 govern the establishment of farm acreage allotments and normal yields for tobacco in connection with farm marketing quotas for the marketing year beginning October 1, 1958.

ACREAGE ALLOTMENTS AND NORMAL YIELDS  
FOR OLD FARMS

§ 723.916 *Determination of 1958 preliminary acreage allotments for old farms.* (a) The 1958 preliminary acreage allotment for an old tobacco farm shall be the 1957 farm acreage allotment established for such farm except that where a quantity of tobacco produced on a farm prior to 1957 and stored under bond pursuant to regulations to postpone or avoid payment of penalty has been reduced because the 1957 acreage allotment for such farm was not fully harvested, the 1958 preliminary acreage allotment for such farm shall be determined subject to the provisions of paragraph (c) of this section, if applicable.

(b) For the purpose of determining, under the provisions of paragraph (a) of this section, a 1958 preliminary acreage allotment for an old farm equal to the 1957 farm acreage allotment for such farm, the 1957 farm acreage allotment shall mean the 1957 farm acreage allotment determined for such farm prior to reduction, if any, because of a violation of the tobacco marketing quota regulations for a prior marketing year; and for the purpose of determining a 1958 preliminary acreage allotment for an old farm under the provisions of paragraph (c) of this section the 1957 farm acreage

allotment shall mean the 1957 farm acreage allotment established for such farm after any such reduction.

(c) The provisions of this paragraph shall be applied, if applicable, in the case of an old farm, only where a quantity of tobacco produced thereon prior to 1957 and stored under bond pursuant to regulations to postpone or avoid payment of penalty was reduced because the 1957 allotment was not fully harvested. If the harvested acreage (as that term is explained in subparagraphs (1), (2) and (3) of this paragraph) of Cigar-binder or Cigar-filler and binder tobacco on such old farm in each of the three years 1955-57 was less than 75 percent of the farm acreage allotment for each of such respective years, the 1958 preliminary allotment for such farm shall be the larger of the largest acreage of tobacco harvested on the farm in any one of such three years, or the average acreage of tobacco harvested on the farm in the five years 1953-57: *Provided*, That any such 1958 preliminary allotment shall not exceed the 1957 farm acreage allotment or be less than 0.01 acre.

(1) For the purposes of this paragraph the 1956 harvested acreage shall have the meaning and include the acreage as provided in § 723.816 (b) (tobacco marketing quota regulations for the 1957-58 marketing year (21 F. R. 7202)); and the 1957 harvested acreage shall include the acreage on the farm applicable to the kind of tobacco involved which is determined as provided in the following subparagraphs (2) and (3) of this paragraph to be devoted or diverted in 1957 to participation in the acreage reserve program or conservation reserve program.

(2) The tobacco acreage devoted in 1957 to the acreage reserve program shall be the smaller of (i) the acreage reserve entered in the agreement or (ii) the 1957 allotment minus the actual acreage devoted in 1957 to tobacco.

(3) The acreage diverted from allotment crops in 1957 to the conservation reserve program shall be the smallest of (i) the acreage determined to be in the conservation reserve at the regular rate, (ii) the reduction in soil bank base crops from the farm's soil bank base, or (iii) the amount by which the sum of all acreage allotments for the farm for crops for which there was a reduction in the quantity of excess commodity stored pursuant to the regulations to postpone or avoid payment of penalty because the

1957 allotments were not fully planted, or as to tobacco was not fully harvested, exceeds the sum of the acreage actually devoted to such allotment crops and the acreage reserve, if any, credited under subparagraph (2) of this paragraph to such crops. The crops involved will share pro rata in the acreage so determined on the basis of the respective reductions made in such crops. Such respective reductions will be the amount by which the 1957 allotment exceeds the sum of the acreage actually devoted to the crop and the acreage devoted to the acreage reserve.

(d) Notwithstanding the foregoing provisions of this section, no 1958 preliminary allotment or 1958 farm tobacco acreage allotment shall be determined for any farm that the county and State committee determine has been retired from agricultural production: *Provided*, That this paragraph shall not preclude the determination of a preliminary acreage allotment for an old farm returned to agricultural production, or for a farm for which an acreage allotment may be determined under the provisions of § 723.920.

[1023 (Cigar-Binder and Cigar-Filler and Binder Tobacco-58)-1, Amdt. 1, 22 F. R. 8101, Oct. 12, 1957]

§ 723.917 *1958 old farm tobacco acreage allotment.* The preliminary allotments calculated for all old farms in the State pursuant to § 723.916 shall be adjusted uniformly so that the total of such allotments plus the acreage available for adjusting acreage allotments for old farms, correction of errors, and for allotments for overlooked old farms pursuant to § 723.918 shall not exceed the State acreage allotment.

§ 723.918 *Adjustment of acreage allotments for old farms, correction of errors, and allotments for overlooked old farms.* Notwithstanding the limitations contained in § 723.916, the individual 1958 farm acreage allotment heretofore established for an old farm may be increased if the county committee justifies such increase to the satisfaction of the State committee or its representative as being necessary to establish an allotment for such farm which is fair and equitable in relation to the allotments for other old farms in the community, on the basis of the past acreage of tobacco, making due allowances for drought, flood, hail, other abnormal weather conditions, plant bed, and other diseases; land, labor and

equipment available for the production of tobacco; crop rotation practices; and the soil and other physical factors affecting the production of tobacco. The acreage available in the State for increasing allotments as above described under this section, correction of errors, and providing acreage allotments for overlooked farms shall not exceed in the case of cigar-binder (types 51 and 52) tobacco one percent of the total acreage allotted to all farms in the State for the production of such kind of tobacco for the 1957-58 marketing year, and shall not exceed in the case of cigar-filler and binder (types 42, 43, 44, 53, 54 and 55) tobacco 4 percent of the total acreage allotted to all farms in the State for the production of such kind of tobacco for the 1957-58 marketing year.

§ 723.919 *Reduction of acreage allotment for violation of the marketing quota regulations for a prior marketing year.* (a) If tobacco was marketed or was permitted to be marketed in any marketing year as having been produced on the acreage allotment for any farm which in fact was produced on a different farm, the acreage allotments established for both such farms for 1958 shall be reduced as hereinafter provided, except that such reduction for any such farm shall not be made if the county committee determines that no person connected with such farm caused, aided, or acquiesced in such marketing.

(b) The operator of the farm shall furnish complete and accurate proof of the disposition of all tobacco produced on the farm at such time and in such manner as will insure payment of the penalty due at the time the tobacco is marketed and in the event of failure for any reason to furnish such proof, the acreage allotment for the farm shall be reduced, except that if the farm operator establishes to the satisfaction of the county and State committees that failure to furnish such proof of disposition was unintentional on his part and that he could not reasonably have been expected to furnish accurate proof of disposition, reduction of the allotment will not be required if the failure to furnish proof of disposition is corrected and payment of all additional penalty is made.

(c) If any producer files, or aids or acquiesces in the filing of, any false report with respect to the acreage of tobacco grown on the farm in 1957, the acreage allotment for the farm shall be

reduced as provided in this section, except that if each producer on the farm establishes to the satisfaction of the county and State committees that the filing of, or aiding or acquiescing in the filing of, the false report was unintentional on his part and that he could not reasonably have been expected to know that the report was false, reduction of the allotment will not be required if the report is corrected and payment of all additional penalty is made.

(d) Any such reduction shall be made with respect to the 1958 farm acreage allotment, provided it can be made no later than May 1, 1958. If the reduction cannot be so made effective with respect to the 1958 allotment, such reduction shall be made with respect to the farm acreage allotment next established for the farm where the reduction can be made no later than a corresponding date to be specified in a subsequent year. This section shall not apply if the allotment for any prior year was reduced on account of the same violation.

(e) The amount of reduction in the 1958 allotment shall be that percentage which the amount of tobacco involved in the violation is of the respective farm marketing quota for the farm for the year in which the violation occurred. Where the amount of such tobacco involved in the violation equals or exceeds the amount of the farm marketing quota the amount of reduction shall be 100 percent. The amount of tobacco determined by the county committee to have been falsely identified or for which satisfactory proof of disposition has not been furnished, or with respect to which a false acreage report was filed, shall be considered the amount of tobacco involved in the violation. If the actual production of tobacco on the farm is not known, the county committee shall estimate such actual production, taking into consideration the condition of the tobacco crop during production, if known, and the actual yield per acre of tobacco on other farms in the locality on which the soil and other physical factors affecting the production of tobacco are similar: *Provided*, That the estimate of such actual production of tobacco on the farm shall not exceed the harvested acreage of tobacco on the farm multiplied by the average actual yield on farms in the locality on which the soil and other physical factors affecting the production of tobacco are

similar. The actual yield of tobacco on the farm as so estimated by the county committee multiplied by the farm acreage allotment shall be considered the farm marketing quota for the purposes of this section. In determining the amount of tobacco for which satisfactory proof of disposition has not been shown or with respect to which a false acreage report was filed in case the actual production of tobacco on the farm is not known, the amount of tobacco involved in the violation shall be deemed to be the actual production of tobacco on the farm, estimated as above, less the amount of tobacco for which satisfactory proof of disposition has been shown.

(f) If the farm involved in the violation is combined with another farm prior to the reduction, the reduction shall be applied to that portion of the allotment for which a reduction is required under paragraph (a), (b) or (c) of this section.

(g) If the farm involved in the violation has been divided prior to the reduction, the reduction shall be applied to the allotments for the divided farms as required under paragraph (a), (b) or (c) of this section.

§ 723.920 *Reallocation of allotments released from farms removed from agricultural production or shifted from production of cigar-binder (types 51 and 52) tobacco or cigar-filler and binder (types 42, 43, 44, 53, 54 and 55) tobacco to production of shade-grown cigar-leaf (type 61) wrapper tobacco.* (a) The allotment determined or which would have been determined for any land which is removed from agricultural production for any purpose because of acquisition by any Federal, State, or other agency having a right of eminent domain shall be placed in a State pool and shall be available to the State committee for use in providing equitable allotments for farms owned or purchased by owners displaced because of acquisition of their farms by such agencies. Upon application to the county committee, within five years from the date of such acquisition of the farm, any owner so displaced shall be entitled to have an allotment for any other farm owned or purchased by him equal to an allotment which would have been determined for such other farm plus the allotment which would have been determined for the farm so acquired: *Provided*, That such allotment shall not exceed 20 percent of the acreage of cropland on the farm. The provisions of

this paragraph shall not be applicable if (1) there is any marketing quota penalty due with respect to the marketing of tobacco from the farm or by the owner of the farm at the time of its acquisition by the Federal, State, or other agency; (2) any tobacco produced on such farm has not been accounted for as required by the Secretary; or (3) the allotment next to be established for the farm acquired by the Federal, State, or other agency would have been reduced because of false or improper identification of tobacco produced on or marketed from such farm, or due to a false acreage report.

(b) The allotment determined or which would have been determined for any land which has been used for the production of cigar-binder (types 51 and 52) tobacco or cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco but which will be used in 1958 for the production of cigar wrapper (type 61) tobacco shall be placed in a State pool and shall be available to the State committee to establish allotments pursuant to § 723.926 (b).

§ 723.921 *Farms divided or combined.*

(a) If land operated as a single farm in 1957 will be operated in 1958 as two or more farms, or is otherwise required under the definition of a farm to be divided for 1958, the 1958 tobacco acreage allotment determined or which otherwise would have been determined for the entire farm shall be apportioned among the tracts in the same proportion as the acreage of cropland available for the production of tobacco in each such tract in 1957 bore to the total number of acres of cropland available for the production of tobacco on the entire farm in such year, except that, upon recommendation of the county committee and with State committee approval and agreement of the interested parties in writing, the 1958 tobacco acreage allotment determined or which otherwise would have been determined for the entire farm may be apportioned among the tracts (1) in the same proportion as the five-year average acreage of tobacco harvested on each such tract during the years 1953-57 bore to the five-year average acreage of tobacco harvested on the entire farm during 1953-57 or (2) if the farm to be divided in 1958 consists of two or more tracts which were separate and distinct farms, or distinct portions of such farms, before being combined for 1957, in the

same proportion that each contributed to the farm acreage allotment: *Provided*, That with the recommendation of the county committee and approval of the State committee and with the written agreement of all interested persons, the tobacco acreage allotment determined for a tract under the provisions of this paragraph may be increased or decreased by not more than the larger of one-hundredth acre or 10 percent of the 1958 acreage allotment determined for the entire farm with corresponding increases or decreases made in the acreage allotment apportioned to the other tract or tracts.

(b) Subject to the requirements for reconstituting farms contained in the definition of a farm, if two or more farms operated separately in 1957 are combined and operated in 1958 as a single farm, the 1958 allotment shall be the sum of the 1958 allotments determined for each of the farms comprising the combination.

(c) If a farm is to be divided in 1958 in settling an estate the allotment may be divided among the various tracts in accordance with paragraph (a) of this section or on such other basis as the State committee determines will result in equitable allotments, subject, however, to the requirements for reconstituting farms contained in the definition of a farm.

[Paragraphs (b) and (c) amended by 1023 (Cigar-Binder and Cigar-Filler and Binder Tobacco-58)-1, Amdt. 1, 22 F. R. 8103, Oct. 12, 1957]

§ 723.922 *Determination of normal yields for old farms.* The county committee will determine a normal yield for each farm for which a 1958 tobacco acreage allotment was established by first obtaining the average of the two highest yields for such farms in the three years 1951, 1953 and 1954, or if tobacco was grown in less than two of such years the yield for the one year will be used in lieu of the average yield of two years. If in any case the preliminary yield so obtained exceeds 125 percent or is less than 80 percent of the county check yield (to be ascertained as hereinafter provided), such preliminary yield shall be adjusted to the applicable percentage, and any preliminary yield may be also adjusted for drought, flood or other abnormal conditions affecting the yield, but the yield so adjusted shall not exceed 125 percent or be less than 80 percent of the county check yield. If the total

production extension for all farms in the county in 1956 obtained by multiplying the 1956 acreage allotment for each farm by the preliminary yield so computed for such farm varies more than one percent from the total production extension obtained by multiplying the county check yield by the total of all allotted tobacco acreage in the county for 1956, the preliminary yield for each farm will then be factored to the extent required to eliminate any variance. Subject to the approval of the State committee, the yields may be further factored to provide a yield for each farm in the county that is not more than 125 percent or less than 80 percent of the county check yield. The yield for the farm thus determined shall be the normal yield for the farm: *Provided*, That if the farm has been reconstituted since 1950, the normal yield for such farm shall be determined by the county committee by appraisal taking into consideration available yield data for the land involved and yields established as heretofore provided in this section for similar farms in the community. The State committees or their representatives are authorized to make changes or require changes to be made in farm preliminary normal yields per acre which are necessary to result in a normal yield that is determined in accordance with this section, whether or not a producer questions or appeals the normal yield as determined for the farm to the State committee; however, such changes shall not be permitted to result in a weighted yield per acre for all farms in the county that is in excess of 102 percent of the county check yield. The county check yield shall be determined by the Deputy Administrator on the basis of the average of the two highest yields in the county in the three years 1951, 1953 and 1954 adjusted where necessary so as to conform with and, except for factoring, to not exceed 125 percent or be less than 80 percent of the State check yield; such State check yield to be determined by the Deputy Administrator on the basis of the average of the two highest yields in the State in the three years 1951, 1953 and 1954, but not to exceed 125 percent or be less than 80 percent of the average of the two high year averages of all States which grow the type of tobacco indicated in each of the following groups: (a) Types 51-52, (b) Types 42-44, and (c) Types 54 and 55.

**CODIFICATION:** In the sixth sentence of § 723.922, the words "this section" were substituted for "these regulations" by 1023 (Cigar-Binder and Cigar-Filler and Binder Tobacco-58)-1, Amdt. 1, 22 F. R. 8103, Oct. 12, 1957.

**ACREAGE ALLOTMENTS AND NORMAL YIELDS  
FOR NEW FARMS**

§ 723.923 *Determination of acreage allotments for new farms.* (a) The acreage allotment, other than an allotment made under § 723.920, for a new farm shall be that acreage which the county committee determines is fair and reasonable for the farm, taking into consideration the past tobacco experience of the farm operator; the land, labor, and equipment available for the production of tobacco; crop rotation practices; and the soil and other physical factors affecting the production of tobacco: *Provided*, That the acreage allotment so determined shall not exceed 75 percent of the allotments for old farms which are similar with respect to land, labor, and equipment available for the production of tobacco, crop rotation practices, and the soil and other physical factors affecting the production of tobacco: *And provided further*, That if the acreage planted to tobacco on a new tobacco farm is less than the tobacco acreage allotment otherwise established for the farm pursuant to this section, such allotment shall be automatically reduced to the acreage planted to tobacco on the farm.

(b) Notwithstanding any other provisions of this section, a tobacco acreage allotment shall not be established for any new farm unless each of the following conditions has been met:

(1) The farm operator shall have had experience in the kind of tobacco for which an allotment is requested and such experience shall consist of the preparation of the plant bed and extend through preparation of the tobacco for market: *Provided*, That production of tobacco on a farm in 1955, 1956 or 1957 for which in accordance with applicable law and regulations no 1955, 1956 or 1957 tobacco acreage allotment respectively was determined shall not be deemed such experience for any producer.

(2) The farm covered by the application shall be the only farm owned or operated by the farm operator for which a cigar-binder (types 51 and 52) tobacco, or cigar-filler and binder (types 42, 43,

44, 53, 54 and 55) tobacco acreage allotment is established for the 1958-59 marketing year.

(3) The farm or any portion thereof shall not have been a part of another farm during any of the five years 1953-57 for which an old farm tobacco acreage allotment was determined, except that this provision shall not of itself make a farm ineligible for a new farm allotment (i) if it is the same farm or a portion of the same farm for which an old farm allotment was cancelled since 1952 due to no tobacco being produced thereon for five years, or (ii) if it was a portion of an old farm during any of the years 1953-57 and at time of division of the farm contained cropland but received no part of the allotment due (a) to division of the allotment on a contribution basis, or (b) to agreement and approval of all interested parties as provided in the section of these regulations governing divisions and combinations of allotments.

(c) The acreage allotments established as provided in this section shall be subject to such downward adjustment as is necessary to bring such allotments in line with the total acreage available for allotment to all new farms. One percent of the 1958 national marketing quota shall, when converted to an acreage allotment by the use of the national average yield, be available for establishing allotments for new farms. The national average yield shall be the average of the several State yields used in converting the State marketing quotas into State acreage allotments.

[1023—Allotments—(Cigar-Binder and Cigar-Filler and Binder—58)—1, 23 F. R. 638, Jan. 31, 1958]

*Prior Amendments*

1958: 23 F. R. 135, Jan. 8.

§ 723.924 *Time for filing application.* An application for a new farm allotment shall be filed with the ASC county office not later than March 11, 1958, unless the farm operator was discharged from the armed services subsequent to December 31, 1957, in which case such application shall be filed within a reasonable period prior to planting tobacco on the farm.

§ 723.925 *Determination of normal yields for new farms.* The normal yield for a new farm shall be that yield per acre which the county committee determines by appraisal, taking into consideration available yield data for the

land involved and yields established as provided in § 723.922 for similar farms in the community.

**MISCELLANEOUS**

§ 723.926 *Determination of acreage allotments and normal yields for farms returned to agricultural production or shifted from production of shade-grown cigar-leaf (type 61) wrapper tobacco to production of cigar-binder (types 51 and 52) tobacco or cigar-filler and binder (types 42, 43, 44, 53, 54 and 55) tobacco.* (a) Notwithstanding the foregoing provisions of §§ 723.912 to 723.925, the acreage allotment for any farm which was acquired by any Federal, State, or other agency having the right of eminent domain for any purpose and which is returned to agricultural production in 1958 or which was returned to agricultural production in 1957 too late for the 1957 allotment to be established, shall be determined by one of the following methods:

(1) If the land is acquired by the original owner, any part of the acreage allotment which was or could have been established for such farm prior to its retirement from agricultural production which remains in the State pool (adjusted to reflect the uniform increases and decreases in comparable old farm allotments since the farm was acquired) may be established as the 1958 allotment for such farm by transfer from the pool, and if any part of the allotment for such land was transferred by the original owner through the State pool to another farm now owned by him, such owner may elect to transfer all or any part of such allotment (as adjusted) to the farm which is returned to agricultural production.

(2) If the land is acquired by a person other than the original owner, or if all of the allotment was transferred through the State pools to another farm and the original owner does not now own the farm to which the allotment was transferred, the farm returned to agricultural production shall be regarded as a new farm.

(b) Notwithstanding the foregoing provisions of §§ 723.912 to 723.925, an allotment may be established by the county and State committees for a farm which in 1957 was producing shade-grown cigar-leaf (type 61) wrapper tobacco but on which cigar-binder (types 51 and 52) tobacco or cigar-filler and



binder (types 42, 43, 44, 53, 54 and 55) tobacco will be produced in 1958. The acreage used for such purpose will be limited to that placed in the State pool pursuant to § 723.920 (b). Any allotment established pursuant to this paragraph shall, to the extent of available acreage in such pool, be determined by the county and State committees so as to be fair and equitable in relation to the allotments for other old farms in the community, on the basis of the past acreage of tobacco, making due allowances for drought, flood, hail, other abnormal weather conditions, plant bed, and other diseases; land, labor, and equipment available for the production of tobacco; crop rotation practices; and the soil and other physical factors affecting the production of tobacco. Allotments established pursuant to this paragraph are eligible for consideration for adjustments under § 723.918.

(c) The normal yield for any such farm under paragraph (a) or (b) of this section shall be that yield per acre which the county committee determines by appraisal, taking into consideration available yield data for the land involved and yields established as provided in § 723.922 for similar farms in the community.

§ 723.927 *Approval of determinations made under §§ 723.912 to 723.926, and notices of farm acreage allotments.* (a) All farm acreage allotments and yields shall be determined by the county committee of the county in which the farm is located and shall be reviewed by or on behalf of the State committee and the State committee may revise or require revision of any determinations made under §§ 723.912 to 723.926. All acreage allotments and yields shall be approved by or on behalf of the State committee and no official notice of acreage allotment shall be mailed to a grower until such allotment has been approved by or on behalf of the State committee.

(b) An official notice of the farm acreage allotment and marketing quota shall be mailed to the operator of each farm shown by the records of the county committee to be entitled to an allotment. The notice to the operator of the farm shall constitute notice to all persons who as operator, landlord, tenant, or sharecropper are interested in the farm for which the allotment is established. All such notices shall bear the

actual or facsimile signature of a member of the county committee. The facsimile signature may be affixed by the county committeemen or an employee of the county office. Insofar as practical all allotment notices shall be mailed in time to be received prior to the date of any tobacco marketing quota referendum. A copy of such notice, containing thereon the date of mailing, shall be maintained for not less than 30 days in a conspicuous place in the county office and shall thereafter be kept available for public inspection in the office of the county committee. A copy of such notice certified as true and correct shall be furnished without charge to any person interested in the farm in respect to which the allotment is established.

[Paragraph (b) amended by 1023—Allotments—(Cigar-Binder and Cigar-Filler and Binder Tobacco—58)—1, Amdt. 2, 23 F. R. 135, Jan. 8, 1958]

(c) If the records of the county committee indicate that the allotment established for any farm may be changed because of (1) a violation of the marketing quota regulations for a prior marketing year, (2) removal of the farm from agricultural production, (3) division of the farm, or (4) combination of the farm, no notice of such allotment shall be mailed until the proper allotment is determined for the farm by the county committee with the approval of the State committee: *Provided*, That the notice of allotment for any farm shall, insofar as practicable, be mailed no later than May 1, 1958.

(d) If the county committee determines with the approval of the State committee that the official written notice of the farm acreage allotment issued for any farm erroneously stated the acreage allotment to be larger than the correct allotment, and the county committee also determines that the error was not so gross as to place the operator on notice thereof, and that the operator, relying upon such notice and acting in good faith, planted an acreage of tobacco in excess of the correct farm acreage allotment, the acreage allotment shown on the erroneous notice shall be deemed to be the tobacco acreage allotment for the farm for all purposes in connection with the tobacco marketing quota program for the 1958–59 marketing year, provided the acreage of tobacco harvested from the farm is not in excess of the acreage shown on the erroneous notice. In the

event the acreage of tobacco harvested exceeds the farm acreage allotment shown on the erroneous notice, the acreage allotment for the farm as correctly determined and shown on a revised notice of farm acreage allotment and marketing quota shall be the tobacco acreage allotment for the farm for all purposes in connection with the tobacco marketing quota program for the 1958-59 marketing year.

**§ 723.928 Application for review.**

Any producer who is dissatisfied with the farm acreage allotment and marketing quota established for his farm may, within fifteen days after mailing of the official notice of the farm acreage allotment and marketing quota, file application in writing with the ASC county office to have such allotment reviewed by a review committee. The procedures governing the review of farm acreage allotments and marketing quotas are contained in the regulations issued by the Secretary (Part 711 of this chapter) which are available at ASC county office.

**SUBPART—CIGAR-BINDER (TYPES 51 AND 52) TOBACCO, AND CIGAR-FILLER AND BINDER (TYPES 42, 43, 44, 53, 54 AND 55) TOBACCO MARKETING QUOTA REGULATIONS, 1958-59 MARKETING YEAR**

**AUTHORITY:** §§ 723.931 to 723.962 issued under sec. 375, 52 Stat. 66 as amended; 7 U. S. C. 1375. Interpret or apply secs. 301, 313, 314, 372-375, 52 Stat. 38 as amended, 47 as amended, 48 as amended, 65 as amended, 66 as amended, secs. 125, 211, 70 Stat. 198, 202; 1813, 1860. 7 U. S. C. 1301, 1313, 1314, 1372-1375.

**SOURCE:** §§ 723.931 to 723.962 contained in 1026 (Cigar-Binder and Cigar-Filler and Binder—58)—1, 23 F. R. 5183, July 9, 1958; 23 F. R. 5419, July 17, 1958.

**GENERAL**

**§ 723.931 Definitions.** As used in §§ 723.931 to 723.962, and in all instructions, forms, and documents in connection therewith, the words and phrases defined in this section shall have the meanings herein assigned to them unless the context or subject matter otherwise requires.

(a) "Act" means the Agricultural Adjustment Act of 1938, as amended.

(b) "Buyer" means a person who engages to any extent in the business of acquiring tobacco from producers without regard to whether such person is registered as a dealer with the Internal

Revenue Service. In the case of a person who employs person(s) to negotiate contracts with producers to purchase their tobacco such person rather than such employed person(s) is the buyer of such tobacco.

(c) "Carry-over" tobacco means, with respect to a farm, tobacco produced prior to the beginning of the calendar year 1958 which has not been marketed or which has not been disposed of under § 723.845.

(d) **Committees:**

(1) "Community committee" means the persons elected within a community as the community committee pursuant to regulations governing the selection and functions of Agricultural Stabilization and Conservation county and community committees.

(2) "County committees" means the persons elected within a county as the county committee pursuant to regulations governing the selection and functions of Agricultural Stabilization and Conservation county and community committees.

(3) "State committee" means the persons in a State designated by the Secretary as the Agricultural Stabilization and Conservation State committee.

(e) "County office manager" means the person employed by the county committee to execute the policies of the county committee and be responsible for the day-to-day operations of the ASC county office, or the person acting in such capacity.

(f) "Deputy Administrator" means the Deputy Administrator or the Acting Deputy Administrator for Production Adjustment, Commodity Stabilization Service, United States Department of Agriculture.

(g) "Director" means the Director or Acting Director, Tobacco Division, Commodity Stabilization Service, United States Department of Agriculture.

(h) "Farm": The definition of this term as set forth in Part 718 of this chapter shall apply in the regulations in this part.

(i) "Market" means the disposition in raw or processed form of tobacco by voluntary or involuntary sale, barter, or exchange, or by gift inter vivos. "Marketing" and "marketed" shall have corresponding meanings to the term "market."

(j) "Operator" means the person who is in charge of the supervision and conduct of the farming operations on the entire farm.

(k) "Person" means an individual, partnership, association, corporation, estate or trust, or other business enterprise or other legal entity, and wherever applicable, a State, a political subdivision of a State or any agency thereof.

(l) "Producer" means a person who as owner, landlord, tenant or sharecropper, is entitled to share in the tobacco available for marketing from the farm or in the proceeds thereof.

(m) "Pound" means that amount of tobacco which, if weighed in its unstemmed form and in the condition in which it is usually marketed by producers, would equal one pound standard weight.

(n) "Sale" means the first marketing of farm tobacco on which the gross amount of the sales price therefor has been or could be readily determined.

(o) "Sale date" means the date on which the gross amount of the sales price of the first marketing of farm tobacco has been or could be readily determined.

(p) "Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the Department to whom authority has been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(q) "State administrative officer" means the person employed by the State committee to execute the policies of the State committee and be responsible for the day-to-day operations of the ASC State office, or the person acting in such capacity.

(r) "Tobacco" means:

(1) The types set forth below, as classified in Service and Regulatory Announcement No. 118 (Part 30 of this title) of the Bureau of Agricultural Economics of the United States Department of Agriculture, or all such types of tobacco as indicated by the context.

(i) Type 42 tobacco, that type of cigar-leaf tobacco commonly known as Gebhardt, Ohio Seedleaf, or Ohio Broadleaf, produced principally in the Miami Valley section of Ohio and extending into Indiana;

(ii) Type 43 tobacco, that type of cigar-leaf tobacco commonly known as Zimmer, Spanish, or Zimmer Spanish,

produced principally in the Miami Valley section of Ohio and extending into Indiana;

(iii) Type 44 tobacco, that type of cigar-leaf tobacco commonly known as Dutch, Shoestring Dutch, or Little Dutch, produced principally in the Miami Valley section of Ohio;

(iv) Type 51 tobacco, that type of cigar-leaf tobacco commonly known as Connecticut Valley Broadleaf or Connecticut Broadleaf, produced primarily in the valley area of Connecticut;

(v) Type 52 tobacco, that type of cigar-leaf tobacco commonly known as Connecticut Valley Havana Seed, or Havana Seed of Connecticut and Massachusetts, produced primarily in the Connecticut Valley area of Massachusetts and Connecticut;

(vi) Type 53 tobacco, that type of cigar-leaf tobacco commonly known as York State Tobacco, or Havana Seed of New York and Pennsylvania, produced principally in the Big Flats section of New York, extending into Pennsylvania and in the Onondaga section of New York State;

(vii) Type 54 tobacco, that type of cigar-leaf tobacco commonly known as Southern Wisconsin cigar-leaf or Southern Wisconsin binder type produced principally south and east of the Wisconsin River; and

(viii) Type 55 tobacco, that type of cigar-leaf tobacco commonly known as Northern Wisconsin cigar-leaf or Northern Wisconsin binder type, produced principally north and west of the Wisconsin River.

(2) Tobacco which has the same characteristics and corresponding qualities, colors, and lengths shall be treated as one type, regardless of any factors of historical or geographical nature which cannot be determined by an examination of the tobacco. The term "tobacco" shall include all leaves harvested, including trash.

(3) For the purpose of discovering and identifying all tobacco subject to marketing quotas the term "tobacco" with respect to any farm located in an area in which any kind of tobacco subject to marketing quotas is normally produced, shall include all acreage of tobacco on the farm, including any acreage which the farm operator may contend is not devoted to the production of tobacco as defined herein. The acreage of each

kind of tobacco (cigar-binder (types 51 and 52) and cigar-filler and binder (types 42, 43, 44, 53, 54, and 55 )) shall be determined by the county committee on the basis of seeding, cultivating, curing, and marketing practices commonly known to the area. Such determination shall include all acreage of tobacco on the farm. The production of the acreage of each kind of tobacco so determined shall be considered to be tobacco of the kind available for marketing until such time as the operator of the farm furnishes to the county committee satisfactory proof that a part or all of the production of such acreage has been classified pursuant to Part 29 of this title when marketed, as a different kind of tobacco. Any amount of tobacco so classified as a different kind shall be converted to acres on the basis of the average yield per acre of the entire acreage of tobacco grown on the farm in 1958 for the purpose of determining the harvested acreage of such kind of tobacco produced on the farm.

(s) "Tobacco available for marketing" means all tobacco produced on the farm in the calendar year 1958 plus any carry-over tobacco, less any tobacco disposed of in accordance with § 723.945.

(t) "Tobacco subject to marketing quotas" means any cigar-binder (types 51 and 52) tobacco or any cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco marketed during the period October 1, 1958, to September 30, 1959, inclusive, and any cigar-binder (types 51 and 52) tobacco or any cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco produced in the calendar year 1958 and marketed prior to October 1, 1958.

(u) "Trucker" means a person who engages to any extent in the business of trucking or hauling tobacco for producers to a point where it may be marketed or otherwise disposed of in the form and in the condition in which it is usually marketed by producers.

§ 723.932 *Instructions and forms.* The Director shall cause to be prepared and issued such forms as are necessary, and shall cause to be prepared such instructions with respect to internal management as are necessary for carrying out the regulations in this part. The forms and instructions shall be approved by, and the instructions shall be issued by, the Deputy Administrator.

§ 723.933 *Extent of calculations and rule of fractions—(a) Harvested acreage.* The acreage of tobacco harvested on a farm in 1958 shall be expressed in hundredths and fractions of less than one hundredth of an acre shall be dropped. For example, 1.550, 1.555, or 1.559 acres would be 1.55 acres.

(b) *Percent excess.* The percentage of excess tobacco available for marketing from a farm, hereinafter referred to as the "percent excess," shall be expressed in tenths and fractions of less than one-tenth shall be dropped. For example, 12.59 percent would be 12.5 percent.

(c) *Converted rate of penalty.* The amount of penalty per pound upon marketings of tobacco subject to penalty, hereinafter referred to as the "converted rate of penalty", shall be expressed in tenths of a cent and fractions of less than a tenth shall be dropped, except that if the resulting converted rate of penalty is less than a tenth of a cent, it shall be expressed in hundredths and fractions of less than a hundredth shall be dropped. For example, 3.68 cents per pound would be 3.6 cents, and 0.068 cent per pound would be 0.06 cent.

#### IDENTIFICATION AND LOCATION OF FARMS AND DETERMINATION OF ACREAGE

§ 723.934 *Identification and location of farms.* (a) Each farm as operated for the 1958 crop of tobacco shall be identified by a farm serial number assigned by the county office manager and all records pertaining to marketing quotas for the 1958 crop of tobacco shall be identified by such number.

(b) A farm shall be regarded as located in the county in which the principal dwelling is situated, or if there is no dwelling thereon, it shall be regarded as located in the county in which the major portion of the farm is located.

§ 723.935 *Determination of tobacco acreage—(a) County committees.* For the purpose of ascertaining with respect to each farm whether there is excess tobacco of the 1958 crop available for marketing, the county committee shall determine the acreage of tobacco on each farm in the county for which a 1958 tobacco acreage allotment has been established and on any other farms in the county on which the county committee has reason to believe tobacco was planted. The county committee's determination shall be based upon acreage

and performance determined as provided in the applicable provisions of Part 718 of this chapter.

(b) *Tolerance in measured acreage.*

For the purpose of §§ 723.931 to 723.962, inclusive, and subject to the rule of fractions heretofore provided in § 723.933 (a), if the determination of the county committee of the planted or the harvested acreage of tobacco on a farm is in excess of the farm tobacco acreage allotment and the excess acreage is not more than the smaller of two percent of such acreage allotment or nine hundredths (0.09) of an acre, in either case the planted or harvested acreage of tobacco on such farm shall be deemed to be the same acreage as the tobacco acreage allotment established for such farm: *Provided*, That if the determination of the county committee of the planted or harvested acreage of tobacco on any farm is in excess of the farm tobacco acreage allotment by more than the smaller of two percent of such acreage allotment or nine hundredths (0.09) of an acre, all such planted or harvested acreage of tobacco in excess of the farm tobacco acreage allotment as determined by the county committee shall be tobacco acreage in excess of the allotment.

(c) *Notice to farm operators.* The county committee shall notify the farm operator of the measured acreage of tobacco on each farm as determined under the provisions of this section.

(d) *Harvested acreage of tobacco.* The acreage of tobacco determined or as re-determined for a farm by the county committee pursuant to this section shall be the harvested acreage of tobacco for the farm for the purpose of issuing the correct marketing card for the farm as provided in § 723.938 unless the farm operator furnishes to the county committee satisfactory proof that a portion of the acreage planted will not be harvested or that a representative portion of the production of the acreage physically harvested will be disposed of other than by marketing, in which case the harvested acreage shall be the acreage as adjusted by taking into account the portion of the acreage planted which will not be harvested or the portion of the production of the acreage physically harvested which will be disposed of other than by marketing.

(e) *Acreage not determined.* If the farm operator or his representative pre-

vents the county committee from obtaining information necessary to determine the correct acreage of tobacco on a farm, in addition to any other liability which might be imposed upon the operator, and until the farm operator or his representative permits a determination of the correct acreage, all acreage of tobacco on the farm shall be deemed to be in excess of the farm acreage allotment for the purpose of issuing a marketing card for the farm.

(f) *Prior measurements.* Measurements made prior to the effective date of this section, and in accordance with procedures then in effect may be utilized where pertinent for the purpose of ascertaining with respect to any farm the 1958 tobacco acreage and the tobacco acreage in excess of the 1958 farm tobacco acreage allotment.

#### FARM MARKETING QUOTAS AND MARKETING CARDS

§ 723.936 *Amount of farm marketing quota*—(a) *Actual production.* The marketing quota for a farm shall be the actual production of tobacco on the farm acreage allotment as established for the farm in accordance with 1023 (Cigar-Binder and Cigar-Filler and Binder-58)-1, Marketing Quota Regulations 1958-59 (§§ 723.912 to 723.928; 22 F. R. 4351, 6127, 23 F. R. 135). The actual production of the farm acreage allotment shall be the average yield per acre of the entire acreage of tobacco harvested on the farm in 1958 times the farm acreage allotment.

(b) *Excess production.* The excess tobacco on any farm shall be (1) that quantity of tobacco which is equal to the average yield per acre of the entire acreage of tobacco harvested on the farm in 1958 times the number of acres harvested in excess of the farm acreage allotment, plus (2) any excess carry-over tobacco.

§ 723.937 *Transfer of farm marketing quotas.* These shall be no transfer of farm marketing quotas except as provided in §§ 723.920 and 723.926 of the cigar-binder and cigar-filler and binder tobacco marketing quota regulations for determining acreage allotments and normal yields, 1958-59 marketing year.

§ 723.938 *Issuance of marketing cards.* (a) A marketing card shall be issued for each farm having tobacco available for marketing.

(b) *Excess marketing card (MQ-77—Tobacco)*. The provisions of this paragraph govern the issuance of excess marketing cards except with respect to the issuance of marketing cards for the identification of tobacco grown for experimental purposes only, as provided in paragraph (c) (2) of this section.

(1) *Excess marketing card showing full rate of penalty*. An excess marketing card (ineligible for price support loans) showing the full rate of penalty set forth in § 723.947 (b) shall be issued for a farm in any case:

(i) Where tobacco is harvested in 1958 from a farm for which no 1958 acreage allotment was established, or

(ii) Where tobacco is harvested in 1958 from a farm and the farm operator or his representative prevents the county committee or its representative from obtaining information necessary to determine the correct acreage of tobacco on the farm.

(2) *Excess marketing card showing converted rate of penalty or zero penalty*. An excess marketing card (ineligible for price support loans) showing the extent to which marketings of tobacco from a farm are subject to penalty, determined as provided in § 723.944 (including zero penalty except where the provisions of subdivision (ii) of this subparagraph apply), shall be issued in any case:

(i) Where tobacco is harvested in 1958 from a farm in excess of the farm acreage allotment therefor, or

(ii) Where tobacco is to be marketed from a farm in 1958 having carryover tobacco available for marketing and the percent excess determined pursuant to § 723.944 (b) exceeds zero percent, or

(iii) Where tobacco is produced on newly irrigated or drained land which was not used for the production of tobacco prior to May 28, 1956 and which is within any Federal irrigation or drainage project (as defined in section 211 of the Agricultural Act of 1956) authorized on or after May 28, 1956; or where tobacco is produced on land reclaimed by a flood-control project authorized on or after May 28, 1956; or where tobacco is produced on land owned by the Federal Government in violation of the provisions of a lease restricting the production of tobacco.

(3) *Excess marketing cards showing zero penalty only*. An excess marketing card (ineligible for price support loans)

showing zero penalty only shall be issued under the following conditions:

(i) If more than one kind of tobacco is produced on a farm in 1958, a zero penalty excess marketing card shall be issued for each kind of tobacco produced thereon for which the harvested acreage is not in excess of the farm acreage allotment therefor if at the time of issuing marketing cards for the farm the harvested acreage of any kind of tobacco is in excess of the farm acreage allotment for such kind of tobacco; or

(ii) For any kind of tobacco produced on a farm in 1958 the acreage of which is in excess of the farm acreage allotment therefor and the operator or any other producer on the farm fails to file with the county ASC office a written request (with deposit to cover the cost as estimated by the county committee) to dispose of excess tobacco or to have a remeasurement made of the tobacco acreage within ten (10) days from the date of notice to the farm operator on Form CSS-590, Notice of Excess Acreage, and the tobacco produced on the excess acreage is disposed of other than by marketing in accordance with § 723.945 unless the county committee with the approval of a representative of the State committee determines that failure to file such written request was due to circumstances beyond the control of the farm operator or producer; or

(iii) For any kind of tobacco physically harvested from a farm in 1958 from an acreage in excess of the acreage allotment for the farm and disposed of in accordance with § 723.945 (a) unless the county committee with the approval of a representative of the State committee determines that the acreage of tobacco was not measured or remeasured, as the case may be, in sufficient time to afford the farm operator an opportunity to dispose of the excess acreage prior to harvest.

(c) *Within Quota Marketing Card (MQ-76—Tobacco)*. In any case where an excess marketing card is not required to be issued for a farm under paragraph (b) of this section, a Within Quota Marketing Card (eligible for price support loans and marketing without penalty) shall be issued for such farm under the following conditions:

(1) If the harvested acreage of tobacco for the farm in 1958 is not in excess of the farm acreage allotment

therefor and any excess carryover tobacco can be marketed without penalty under the provisions of § 723.944 (b).

(2) If the Director of a publicly owned Agricultural Experiment Station furnishes to the ASC State office a list by counties showing the following information with respect to each kind of tobacco and farms on which tobacco is grown for experimental purposes only:

(i) Name and address of the publicly owned experiment station,

(ii) Name of the owner, and name of the operator if different from the owner of each farm on which tobacco is grown for experimental purposes only,

(iii) The amount of acreage of tobacco grown on each farm for experimental purposes only, and

(iv) A certification signed by the Director of the publicly owned agricultural experiment station to the effect that such acreage of tobacco was grown on each farm for experimental purposes only; the tobacco was grown under his direction; and the acreage on each plot was considered necessary for carrying out the experiment: *Provided, however*, That if the Director of a publicly owned agricultural experiment station does not furnish the information and certification as required above in this subparagraph, an excess marketing card showing zero penalty shall be issued for the purpose of identifying tobacco produced for experimental purposes only under the direction of such Director. The list required in this subparagraph shall be posted and kept available for public inspection in the ASC office of the county in which the farms included in the list are located.

(d) *Stamping Within Quota Marketing Cards (MQ-76) to show producer indebtedness.* (1) If any producer on a farm is indebted to the United States and such indebtedness is listed on the county debt register, any within quota marketing card (MQ-76) issued for such farm in accordance with paragraph (c) of this section shall bear the notation "Indebted to U. S." on the front cover thereof and on the county office copy of each memorandum of sale, and the name of the debtor and the amount of the indebtedness shall be shown on the inside back cover of the marketing card: *Provided*, That if the producer named as debtor on the card objects to the issuance of or after issuance to the use of a

within quota marketing card (MQ-76) bearing the notation and information of indebtedness to the United States thereon as provided in this subparagraph, an excess marketing card (ineligible for price support loans) showing "zero penalty" shall be issued for such farm. The acceptance and use of a within quota marketing card bearing a notation and information of indebtedness to the United States by the producer named as debtor on such card, shall constitute an authorization by such producer to any tobacco loan organization to pay to the United States the price support advance due the producer to the extent of his indebtedness set forth on such card but not to exceed that portion of the price support advance remaining after deduction of usual loan organization charges, authorized price support charges and amounts due prior lien holders. The acceptance and use of a within quota marketing card bearing a notation and information of indebtedness to the United States shall not constitute a waiver of any right by the producer to contest the validity of such indebtedness by appropriate administrative appeal or legal action.

(2) Any marketing card may be stamped for the purpose of notifying loan organizations that the tobacco being marketed pursuant to such card is subject to a lien held by the United States.

(e) *Replacing or issuing additional marketing cards.* Subject to the approval of the county office manager or the State administrative officer as provided in § 723.939, two or more marketing cards may be issued for any farm. Upon the return to the ASC issuing office of the marketing card after all of the memoranda of sale have been issued therefrom and before the marketing of tobacco from the farm have been completed, a new marketing card of the same kind, bearing the same name, information and identification as the used card shall be issued for the farm. A new marketing card of the same kind shall be issued to replace a card which has been determined by the State administrative officer or county office manager, who issued the card, to have been lost, destroyed or stolen.

§ 723.939 *Persons authorized to issue marketing cards.* (a) The State administrative officer shall be responsible for the issuance of marketing cards issued

for the purpose of identifying tobacco grown for experimental purposes pursuant to the provision of § 723.938 (c) (2).

(b) Except as provided in paragraph (a) of this section, the county office manager shall be responsible for the issuance of marketing cards for farms in the county.

(c) Each marketing card shall bear the actual or facsimile signature of either the State administrative officer or the county office manager who issues the card. The facsimile signature may be affixed by an employee of the State administrative officer or of the county office manager, as the case may be.

§ 723.940 *Rights of producers in marketing cards.* Each producer having a share in the tobacco available for marketing from a farm shall be entitled to the use of the marketing card for marketing his proportionate share.

§ 723.941 *Successors in interest.* Any person who succeeds in whole or in part to the share of a producer in the tobacco available for marketing from a farm shall, to the extent of such succession, have the same rights as the producer to the use of the marketing card for the farm.

§ 723.942 *Invalid cards.* (a) A marketing card shall be invalid if:

(1) It is not issued or delivered in the form and manner prescribed;

(2) Entries are omitted or incorrect;

(3) It is lost, destroyed, stolen, or becomes illegible; or

(4) Any erasure or alteration has been made and not properly initialed.

(b) In the event any marketing card becomes invalid (other than by loss, destruction, or theft, or by omission, alteration or incorrect entry which has been corrected by the State administrative officer or the county office manager who issued the card), the farm operator, or the person having the card in his possession, shall return it to the ASC office at which it was issued.

(c) If an entry is not made on a marketing card as required, either through omission or incorrect entry, and the proper entry is made and initialed by the State administrative officer or the county office manager who issued the card, then such card shall become valid.

§ 723.943 *Report of misuse of marketing card.* Any information which causes a member of a State, county, or community committee, or an employee of an ASC State or county office, to believe that any tobacco which actually was produced on one farm has been or is being marketed under the marketing card issued for another farm shall be reported immediately by such person to the ASC county or State office.

#### MARKETING OR OTHER DISPOSITION OF TOBACCO AND PENALTIES

§ 723.944 *Extent to which marketings from a farm are subject to penalty.* (a) Marketings of tobacco from a farm having no carryover tobacco available for marketing shall be subject to penalty by the percent excess determined as follows: Divide the acreage of tobacco harvested in excess of the farm acreage allotment and not disposed of under § 723.945 by the total acreage of tobacco harvested from the farm.

(b) Marketing of tobacco from a farm having carryover tobacco available for marketing shall be subject to penalty by the percent excess determined as follows:

(1) Determine the number of "carryover acres" by dividing the number of pounds of carryover tobacco from the prior years by the normal yield for the farm for that year.

(2) Determine the number of "within quota carryover acres" by multiplying the "carryover acres" (subparagraph (1) of this paragraph) by the "percent within quota" (i. e., 100 percent minus the "percent excess") for the year in which the carryover tobacco was produced except that if the excess portion of the carryover tobacco has been disposed of under § 723.945, the "percent within quota" shall be 100.

(3) Determine the "total acres" of tobacco by adding the "carryover acres" (subparagraph (1) of this paragraph) and the acreage of tobacco harvested in the current year.

(4) Determine the "excess acres" by subtracting from the "total acres" (subparagraph (3) of this paragraph) the sum of the 1958 allotment and the "within quota carryover acres" (subparagraph (2) of this paragraph).

(5) Determine the percent excess by dividing the "total acres" into the "excess acres" (subparagraph (4) of this paragraph).



(6) Those persons having an interest in the carryover tobacco for a farm shall be liable for the payment of any penalty due thereon.

(c) For the purpose of determining the penalty due on each marketing by a producer of tobacco subject to penalty, the converted rate of penalty per pound shall be determined by multiplying the applicable rate of penalty by the percent excess obtained under paragraph (a) or (b) of this section. The memorandum of sale issued to identify each such marketing shall show the amount of penalty due.

§ 723.945 *Disposition of excess tobacco.*

(a) The farm operator may elect to give satisfactory proof of disposition of excess tobacco prior to the marketing of any tobacco from the farm by furnishing to the county committee satisfactory proof that excess tobacco representative of the entire crop will not be marketed.

(b) If the 1958 harvested acreage is less than the 1958 allotment an amount of any tobacco from the farm which was placed under storage for a prior marketing year equal to the normal production of the acreage by which the 1958 harvested acreage plus any acreage added with respect to any excess carryover tobacco for the farm pursuant to § 723.944 (b) is less than the 1958 allotment may be marketed penalty free.

§ 723.946 *Identification of marketing.* Each marketing of tobacco from a farm shall be identified by an executed memorandum of sale from the 1958 marketing card (MQ-76—Tobacco or MQ-77—Tobacco) issued for the farm on which the tobacco was produced.

(a) *Memorandum of sale.* (1) If a memorandum of sale is not issued by the buyer to identify a sale of producer's tobacco by the end of the the sale date and recorded and reported on MQ-95, Buyer's Record, by the 10th day of the calendar month next following the month during which the sale date occurred, the marketing shall be identified on MQ-95, Buyer's Record, as a marketing of excess tobacco, and reported not later than the 10th day of the calendar month next following the month during which the sale date occurred.

(2) Each excess memorandum of sale issued by a buyer shall be verified by the buyer to determine whether the amount of penalty shown to be due has been correctly computed and such buyer

shall not be relieved of any liability with respect to the amount of penalty due because of any error which may occur in issuing the memorandum of sale.

§ 723.947 *Rate of penalty.* Marketings of excess tobacco from a farm shall be subject to a penalty per pound equal to seventy-five (75) percent of the average market price for the 1957-58 marketing year as determined by the Crop Reporting Board, Agricultural Marketing Service, United States Department of Agriculture. The rate of penalty per pound shall be calculated to the nearest whole cent.

(a) *Average market price.* The average market price as determined by the Crop Reporting Board, Agricultural Marketing Service, United States Department of Agriculture, for the 1957-58 marketing year was 30.6 cents per pound for cigar-filler and binder (types 42, 43, 44, 53, 54 and 55) tobacco, and 48.0 cents per pound for cigar-binder (types 51 and 52) tobacco.

(b) *Rate of penalty per pound.* The penalty per pound upon marketings of excess tobacco subject to marketing quotas during the 1958-59 marketing year shall be 23 cents per pound for cigar-filler and binder (types 42, 43, 44, 53, 54 and 55) tobacco, and 36 cents per pound in the case of cigar-binder (types 51 and 52) tobacco.

(c) *Proportional rate of penalty.* With respect to tobacco marketed from farms having tobacco available for marketing in excess of the farm marketing quota, the penalty shall be paid upon that percentage of each lot of tobacco marketed which the tobacco available for marketing in excess of the farm marketing quota is of the total amount of tobacco available for marketing from the farm as determined under § 723.944.

§ 723.948 *Persons to pay penalty.* The person to pay the penalty due on any marketing of tobacco subject to penalty shall be determined as follows:

(a) *Sale.* The penalty due on tobacco purchased directly from a producer, other than a buyer outside the United States, shall be paid by the buyer of the tobacco who may deduct an amount equivalent to the penalty from the price paid to the producer.

(b) *Marketings through an agent.* The penalty due on marketings by a producer through an agent who is not a buyer shall be paid by the agent who

may deduct an amount equivalent to the penalty from the price paid to the producer.

(c) *Marketings outside the United States.* The penalty due on marketings by a producer directly to any person outside the United States shall be paid by the producer.

§ 723.949 *Marketings deemed to be excess tobacco.* Any marketing of tobacco under any one of the following conditions shall be deemed to be a marketing of excess tobacco:

(a) *Without memorandum of sale.* Any sale of tobacco by a producer which is not identified by a valid memorandum of sale by the end of the sale date shall be deemed to be a marketing of excess tobacco. The penalty thereon shall be paid by the buyer who may deduct an amount equivalent to the penalty from the amount due the producer.

(b) *Unrecorded sale.* Any sale which is not recorded in MQ-95—Tobacco by the 10th day of the month next following the month during which the sale date occurred, shall be deemed to be a marketing of excess tobacco unless and until the buyer furnishes proof acceptable to the State administrative officer showing that such marketing is not a marketing of excess tobacco. The penalty thereon shall be paid by the buyer.

(c) *Marketings falsely identified.* If any marketing of tobacco by a person other than the producer thereof is identified by a marketing card other than the marketing card issued for the farm on which such tobacco was produced, such marketing shall be deemed to be a marketing of excess tobacco and the penalty thereon shall be paid by such person.

(d) *Producer marketings.* (1) If any producer falsely identifies or fails to account for the disposition of any tobacco produced on a farm, an amount of tobacco equal to the normal yield of the number of acres harvested in 1958 in excess of the farm acreage allotment shall be deemed to have been a marketing of excess tobacco from such farm.

(2) If any producer who manufactures tobacco products from tobacco produced by or for him fails to make the reports, or makes a false report, required under § 723.952 (c), he shall be deemed to have failed to account for the disposition of tobacco produced on the farm and shall be subject to penalty on such tobacco. The penalty thereon for false

identification or failure to account shall be paid by the producer and shall be due on the date of false identification or failure to account. The filing of a report by a producer under § 723.952 (c) or (e) which the State committee finds to be incomplete or incorrect shall constitute a failure to account for the disposition of tobacco produced on the farm.

(3) If, after part or all of the tobacco produced on a farm has been marketed, the State or county committee redetermines that the harvested acreage for the farm was more than that shown by the prior determination, and if the harvested acreage may not be deemed to be within the farm acreage allotment pursuant to paragraph (e) of this section, any penalty due on the basis of the harvested acreage as redetermined pursuant to § 723.935 shall be paid by the producer.

(e) *Erroneous notice of measured acreage.* If it is determined that the tobacco acreage on a farm is larger than the tobacco farm acreage allotment approved under § 723.927, such farm shall be deemed to have not exceeded its allotment if the county committee, with the approval of the State administrative officer, determines from the facts and circumstances that:

(1) The excess acreage was caused by reliance in good faith by the farm operator on an erroneous notice of measured acreage;

(2) Neither the farm operator nor any producer on the farm had actual knowledge of the error in time to adjust the excess acreage prior to completion of marketing of tobacco from the farm;

(3) The incorrect notice was the result of an error made by the performance reporter or by another employee of the county or State office in reporting, computing, or recording the allotment acreage for the farm;

(4) Neither the farm operator nor any producer on the farm was in any way responsible for the error; and

(5) The extent of the error in the notice was such that the farm operator would not reasonably be expected to question the acreage of which he was erroneously notified.

§ 723.950 *Payment of penalty—(a)* Penalties shall become due at the time the tobacco is marketed, except in the case of tobacco removed from storage

as provided in § 723.945 (b), or in the case of false identification or failure to account for disposition. Penalty shall be paid by remitting the amount thereof to the ASC State office, not later than the 10th day of the calendar month next following the month in which the tobacco became subject to penalty. A draft, money order, or check drawn payable to the Treasurer of the United States may be used to pay any penalty, but any such draft or check shall be received subject to payment at par.

(b) The penalty due on any sale of tobacco by a producer as determined under §§ 723.931 to 723.962 shall be paid as specified in § 723.948, even though the penalty may exceed the proceeds for the tobacco.

§ 723.951 *Request for return of penalty.* Any producer of tobacco after the marketing of all tobacco available for marketing from the farm and any other person who bore the burden of the payment of any penalty may request the return of the amount of such penalty which is in excess of the amount required under §§ 723.931 to 723.962 to be paid. Such request shall be filed on MQ-85—Tobacco with the ASC county office within two (2) years after the payment of the penalty.

#### RECORDS AND REPORTS

§ 723.952 *Producer's records and reports—(a) Report of tobacco acreage.* The farm operator or any producer on the farm shall file a report with the ASC county office or a representative of the county committee on Form CSS-578, Report of 1958 Acreage, showing all fields of tobacco on the farm in 1958. If any producer on a farm files or aids or acquiesces in the filing of any false report with respect to the acreage of tobacco grown on the farm even though the farm operator or his representative refuses to sign such report, the allotment next established for such farm shall be reduced as provided in the Cigar-Filler Tobacco, Cigar-Binder Tobacco, and Cigar-Filler and Binder Tobacco Marketing Quota Regulations for Determining Acreage Allotments and Normal Yields, 1959-60 Marketing Year.

(b) *Report on marketing card.* The operator of each farm on which tobacco is produced in 1958 shall return to the ASC county office such marketing card issued for the farm whenever marketings from the farm are completed and in no

event later than June 1, 1959. Failure to return the marketing card within fifteen (15) days after written request by certified mail from the county office manager shall constitute failure to account for disposition of tobacco marketed from the farm unless disposition of all tobacco marketed from the farm is accounted for as provided in paragraph (e) of this section. The county office manager or the State administrative officer who issued the marketing card may reissue the same marketing card or issue a new marketing card for any farm from which the marketing of tobacco has not been completed by June 1, 1959.

(c) *Reports by producer-manufacturers.* (1) Each producer who manufactures tobacco products from tobacco produced by or for him as a producer shall report to the ASC State office as follows with respect to such tobacco.

(i) If the 1958 harvested acreage is not in excess of the 1958 farm tobacco acreage allotment, the producer-manufacturer shall furnish the ASC State office a report, as soon as the tobacco has been weighed, and not later than the date specified in writing by the State administrative officer, showing the total pounds of tobacco produced, the date(s) on which such tobacco was weighed, the farm serial number of the farm on which it was produced, and the estimated value of such tobacco.

(ii) If the 1958 harvested acreage is in excess of the 1958 farm acreage allotment, the producer-manufacturer shall furnish the ASC State office a report, as soon as the tobacco has been weighed, and not later than the date specified in writing by the State administrative officer, showing the total pounds of tobacco produced on the farm, the date(s) on which the tobacco was weighed, the farm serial number of the farm on which it was produced, the estimated value of the tobacco, and the location of the tobacco. Unless it has become penalty free under circumstances described in § 723.944 (b), or unless he makes the reports outlined in this section, penalty shall be paid on the tobacco by the producer-manufacturer, at the converted rate of penalty shown on the marketing card issued for the farm, when it is moved from the place where it can be conveniently inspected by the county committee at any time separate and apart from any other tobacco.

(2) If the producer-manufacturer has excess tobacco and does not pay the penalty thereon at the converted rate of penalty shown on the marketing card, as provided in this section, he shall notify the buyer of the manufactured product, or the buyer of any residue resulting from processing the tobacco, in writing, at time of sale of such product or residue of the precise amount of penalty due on such manufactured product or residue. In such event, the producer-manufacturer shall immediately notify the Director and shall account for the disposition of such tobacco by furnishing the Director a report, on a form to be furnished him by the Director, showing the name and address of the buyer of the manufactured products or residue, a detailed account of the disposition of such tobacco and the exact amounts of penalty due with respect to each such sale of such products or residue, together with copies of the written notice of the exact amounts of the penalty due given to the buyers of such products or residue. Failure to file such report, or the filing of a report which is found by the State committee to be incomplete or incorrect, shall constitute failure of the producer-manufacturer to account for the production and disposition of tobacco produced on his farm and in the event of such failure the allotment next established for such farm shall be reduced as provided in the Cigar-Filler Tobacco, Cigar-Binder Tobacco, and Cigar-Filler and Binder Tobacco Marketing Quota Regulations for Determining Acreage Allotments and Normal Yields, 1959-60 Marketing Year, and the producer-manufacturer shall be liable for the payment of penalty as provided in § 723.949 (d).

(3) The reports required by this paragraph shall be in addition to the reports required by paragraph (a) of this section with respect to tobacco produced by or for the producer-manufacturer but not used by him in the manufacture of products therefrom.

(d) *False identification.* If tobacco was marketed or was permitted to be marketed in any marketing year as having been produced on the acreage allotment for any farm which in fact was produced on a different farm, the acreage allotment next established for both such farms and kind of tobacco shall be reduced, except that such reduction for any such farm shall not be made if the

county and State committees determine that no person connected with such farm caused, aided or acquiesced in such marketing, as provided in the applicable tobacco marketing quota regulations for determining acreage allotments and normal yields, 1959-60 marketing year.

(e) *Report of production and disposition.* In addition to any other reports which may be required under §§ 723.930 to 723.962, the operator of each farm or any other person having an interest in the tobacco grown on the farm (even though the harvested acreage does not exceed the acreage allotment or even though no allotment was established for the farm) shall upon written request by certified mail from the State administrative officer within fifteen days after the deposit of such request in the United States mails, addressed to such person at his last known address, furnish the Secretary on Form MQ-108—Tobacco a written report of the acreage, production and disposition made of all tobacco produced on the farm by sending the same to the ASC State office showing, as to the farm at the time of filing said report,

(1) The number of fields (patches or areas) from which tobacco was harvested, the acres of tobacco harvested from each such field, and the total acreage of tobacco harvested from the farm,

(2) The total pounds of tobacco produced,

(3) The amount of tobacco on hand and its location, and

(4) As to each lot of tobacco marketed, the name and address of the buyer or other persons to or through whom such tobacco was marketed and the number of pounds marketed, the gross price, and the date of the marketing. Failure to file the report as requested, or the filing of a report which is found by the State committee to be incomplete or incorrect, shall constitute failure of the producer to account for disposition of tobacco produced on the farm and the allotment next established for such farm shall be reduced as provided in the Cigar-Filler Tobacco, Cigar-Binder Tobacco, and Cigar-Filler and Binder Tobacco Marketing Quota Regulations for Determining Acreage Allotments and Normal Yields, 1959-60 Marketing Year.

§ 723.953. *Buyer's records.*—(a) *Record of marketing.* (1) Each buyer shall keep such records as will enable him to furnish the ASC State office with respect to each

sale of tobacco made by producers to such buyer the following information:

(i) The name of the operator of the farm on which the tobacco was produced and the name of the seller and the seller's address in the case of a sale by a person other than the farm operator.

(ii) Date of sale.

(iii) The serial number of the memorandum of sale used to identify the sale.

(iv) Number of pounds sold.

(v) Gross sale price.

(vi) Amount of any penalty and the amount of any deduction on account of penalty from the price paid the producer(s).

(2) Any buyer or any other person who grades tobacco for farmers shall maintain records which will enable him to furnish the ASC State office the name of the farm operator and the amount of each grade of tobacco obtained from the grading of tobacco from each farm.

(b) *Identification of sale on buyer's records.* The serial number of the memorandum of sale issued to identify each sale by a producer shall be recorded on the check register or check stub for the check written with respect to such sale of tobacco. The serial number of such memorandum shall also be entered on the buyer's copy of the receipt furnished the producer by the buyer, or the buyer's copy of the contract to purchase, or on the document customarily used in recording the purchase, and on MQ-95—Tobacco.

(c) *Marketing card and memorandum of sale.* A valid memorandum of sale to cover each sale of tobacco by a producer shall be properly issued by the buyer. The buyer shall also properly record the sale on the marketing card.

(d) *Records of buyer's disposition of tobacco.* Each buyer shall maintain records which will show the disposition made by him of all tobacco purchased by or for him from producers.

(e) *Additional records and reports by buyers.* Each buyer shall keep such records and furnish such reports to the ASC State office, in addition to the foregoing, as the State administrative officer may find necessary to insure the proper identification of the marketings of tobacco and the collection of penalties due thereon as provided in §§ 723.931 to 723.962.

§ 723.954 *Buyer's reports*—(a) *Report of buyer's name, address, and registration number.* Each buyer shall properly execute, detach and promptly forward to the ASC State office "Receipt for Buyer's Record" contained in MQ-95—Tobacco which is issued to the buyer.

(b) *Record and report of purchases of tobacco from producers.* (1) Each buyer shall keep a record and make reports on MQ-95—Tobacco, Buyer's Record, showing all purchases of tobacco made by or for him from producers. Such record and report shall show for each sale, the sale date, the name of the farm operator (and the name and address of the person selling the tobacco if other than the farm operator), the serial number of the memorandum of sale issued with respect to the sale, the pounds of tobacco represented in the sale, the gross amount; the rate of penalty shown on the memorandum of sale, and the amount of the penalty. If no marketing card is presented by the producer, the buyer shall record and report the purchase as provided above except that the buyer shall enter the word "none" in the space for the serial number of the memorandum of sale, the applicable rate of penalty per pound shown in § 723.947 (b) in the space for rate of penalty, and shall show the name and address of the seller in the space for the seller's name.

(2) The original of MQ-95—Tobacco, the memoranda of sale, and a remittance for all penalties shown by the entries on MQ-95—Tobacco and on the memoranda of sale to be due shall be forwarded to the ASC State office not later than the 10th day of the calendar month next following the month during which the sale date occurred.

§ 723.955 *Buyers not exempt from regular records and reports.* No buyer shall be exempt from keeping the records and making the reports required by the regulations in this part. Any organization which received tobacco from producers for (a) the purpose of selling it for the producer, or (b) the purpose of placing it under a Federal loan, shall keep the records, make the reports, and remit penalties in case of receiving such tobacco for sale, as required in §§ 723.931 to 723.962 for buyers.

§ 723.956 *Records and reports of truckers and persons sorting, stemming, packing, or otherwise processing tobacco.* (a) Each person engaged to any extent

in the business of trucking or hauling tobacco for producers to a point where it may be marketed or otherwise disposed of in the form and in the condition in which it is usually marketed by producers shall keep such records as will enable him to furnish the ASC State office a report with respect to each lot of tobacco received by him showing:

(1) The name and address of the farm operator,

(2) The date of receipt of the tobacco,

(3) The number of pounds received, and

(4) The name and address of the person to whom it was delivered.

(b) Each person engaged to any extent in the business of sorting, stemming, packing, or otherwise processing tobacco for producers shall keep such records as will enable him to furnish the Director a report showing:

(1) The information required above for truckers, and in addition,

(2) The purpose for which the tobacco was received,

(3) The amount of advance made by him on the tobacco, and

(4) The disposition of the tobacco.

§ 723.957 *Separate records and reports from persons engaged in more than one business.* Any person who is required to keep any record or make any report as a buyer or as a person engaged in the business of sorting, stemming, packing, or otherwise processing tobacco for producers and who is engaged in more than one such business, shall keep such records as will enable him to make separate reports for each such business in which he is engaged to the same extent for each such business as if he were engaged in no other business.

§ 723.958 *Failure to keep records or make reports or making false report or records—*(a) (1) *Misdemeanor provisions.* Any buyer, processor, trucker, or person engaged in the business of sorting, stemming, packing, or otherwise processing tobacco for producers, who fails to make any report or keep any record as required under §§ 723.931 to 723.962 or who makes any false report or record, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than \$500; and any tobacco buyer who fails to remedy such violation by making a complete and accurate report or keeping a

complete and accurate record as required under these regulations within fifteen days after notice to him of such violation shall be subject to an additional fine of \$100 for each ten thousand pounds of tobacco, or fraction thereof, bought or sold by him after the date of such violation: *Provided*, That such fine shall not exceed \$5,000; and notice of such violation shall be served upon the tobacco buyer by mailing the same to him by registered mail or by posting the same at an established place of business operated by him, or both. Notice of any violation by a buyer or trucker shall be given by the State administrative officer and notice of violation by a person engaged in the business of sorting, stemming, packing, or otherwise processing tobacco for producers shall be given by the Director.

(2) *Criminal law.* The penalties which may be imposed under subparagraph (1) of this paragraph are in addition to, and not exclusive of any other remedies or penalties under existing law, including the provisions of U. S. Code, Title 18, section 371 relating to acts of conspiracy and U. S. Code, Title 18, section 1001 relating to acts of fraud.

§ 723.959 *Additional records and reports to Director.* Any buyer, processor, trucker, or person engaged in the business of sorting, stemming, packing or otherwise processing tobacco for producers shall, in addition to any records required to be kept or any reports required to be made, under §§ 723.931 to 723.962, keep such records and make such reports to the Director as he may find necessary to enforce §§ 723.931 to 723.962.

§ 723.960 *Examination of records and reports.* For the purpose of ascertaining the correctness of any report made or record kept, or of obtaining information required to be furnished in any report but not so furnished, any buyer, processor, trucker, or person engaged in the business of sorting, stemming, packing, or otherwise processing tobacco for producers shall make available for examination by employees of the ASC State office, and by employees of the Compliance and Investigation Division, Audit Division, and of the Tobacco Division of the Commodity Stabilization Service, United States Department of Agriculture, and upon written request by the State administrative officer or Director, such books, papers, records, accounts, cor-

respondence, contracts, checks, check registers, check stubs, and documents and memoranda as the State administrative officer or Director has reason to believe are relevant and are within the control of such person.

§ 723.961 *Length of time records and reports to be kept.* Records required to be kept and copies of the reports required to be made by any person under §§ 723.931 to 723.962 for the 1958-59 marketing year shall be kept by him until September 30, 1961. Records shall be kept for such longer period of time as may be requested in writing by the State administrative officer or the Director.

§ 723.962 *Information confidential.* All data reported to or acquired by the Secretary pursuant to the provisions of §§ 723.931 to 723.962 shall be kept confidential by all officers and employees of the United States Department of Agriculture and by all members of county and community committees and all ASC county office employees and only such data so reported or acquired as the Deputy Administrator deems relevant shall be disclosed by them and then only in a suit or administrative hearing under Title III of the act.

**SUBPART—MARKETING QUOTA REGULATIONS, 1959-60 MARKETING YEAR**

**AUTHORITY:** §§ 723.1012 to 723.1028 issued under sec. 375, 52 Stat. 66, as amended; 7 U. S. C. 1375. Interpret or apply secs. 301, 313, 363, 52 Stat. 38, 47, as amended, 63, 69 Stat. 684; 7 U. S. C. 1301, 1313, 1363.

**SOURCE:** §§ 723.1012 to 723.1023 contained in 1023—Allotments—(Cigar-Binder and Cigar-Filler and Binder—59-1), 23 F. R. 5322, July 15, 1958, except as otherwise noted.

**GENERAL**

§ 723.1012 *Definitions.* As used in §§ 723.1012 to 723.1028, and in all instructions, forms, and documents in connection therewith, the words and phrases defined in this section shall have the meanings herein assigned to them unless the context or subject matter otherwise requires.

(a) The definitions of the following terms as set forth in Part 719 of this chapter shall apply in §§ 723.1012 to 723.1028: "combination", "community committee", "county committee", "State committee", "county", "county office manager", "cropland", "Department", "Deputy Administrator", "division",

"farm", "operator", "person", "producer", "reconstitution", "Secretary", "Soil Bank Contract", "State administrative officer", and "subdivision".

(b) "Director" means the Director, Tobacco Division, Commodity Stabilization Service, United States Department of Agriculture.

(c) "New farm" means a farm on which tobacco will be harvested in 1959 for the first time since 1953. If in accordance with applicable law and regulations, no 1955, 1956, 1957, or 1958 tobacco acreage allotment was determined for the farm, any acreage of tobacco harvested in 1955, 1956, 1957, or 1958, respectively, shall not be considered as harvested acreage in determining whether the farm is a new farm. The term "harvested" as used in this paragraph shall include acreage preserved as provided by section 377 of the Agricultural Adjustment Act of 1938, as amended, and acreage within the meaning of "harvested acreage" as provided in paragraph (c) of § 723.1016.

(d) "Old farm" means a farm on which tobacco was harvested in one or more of the five years 1954 through 1958. If in accordance with applicable law and regulations, no 1955, 1956, 1957, or 1958 tobacco acreage allotment was determined for the farm, any acreage of tobacco harvested in 1955, 1956, 1957, or 1958, respectively, shall not be considered as harvested acreage in determining whether the farm is an old farm. The term "harvested" as used in this paragraph shall include acreage preserved as provided by section 377 of the Agricultural Adjustment Act of 1938, as amended, and acreage within the meaning of "harvested acreage" as provided in paragraph (c) of § 723.1016.

(e) "Community cropland factor" means that percentage determined by dividing the total cropland for all old farms in the community in 1958 into the total of the 1958 tobacco acreage allotment for such old farms: *Provided*, That (1) if it is determined that the cropland factors for all communities in the county are substantially the same, the county committee, with the approval of the State committee, may consider the entire county as one community, and, (2) if there is only one farm in the county on which tobacco is grown, the community cropland factors of the nearest community in which tobacco is grown shall

be used in determining the acreage indicated by cropland.

(f) "Acreage indicated by cropland" means that acreage determined by multiplying the number of acres of cropland in the farm by the community cropland factor.

(g) "Tobacco" means:

(1) Type 42 tobacco, that type of cigar-leaf tobacco commonly known as Gebhardt, Ohio Seedleaf, or Ohio Broadleaf, produced principally in the Miami Valley section of Ohio and extending into Indiana;

(2) Type 43 tobacco, that type of cigar-leaf tobacco commonly known as Zimmer, Spanish, or Zimmer Spanish, produced principally in the Miami Valley section of Ohio and extending into Indiana;

(3) Type 44 tobacco, that type of cigar-leaf tobacco commonly known as Dutch, Shoestring Dutch, or Little Dutch, produced principally in the Miami Valley section of Ohio;

(4) Type 51 tobacco, that type of cigar-leaf tobacco commonly known as Connecticut Valley Broadleaf or Connecticut Broadleaf, produced primarily in the Valley area of Connecticut;

(5) Type 52 tobacco, that type of cigar-leaf tobacco commonly known as Connecticut Valley Havana Seed, or Havana Seed of Connecticut and Massachusetts, produced primarily in the Connecticut Valley area of Massachusetts and Connecticut;

(6) Type 53 tobacco, that type of cigar-leaf tobacco commonly known as York State Tobacco, or Havana Seed of New York and Pennsylvania, produced principally in the Big Flats section of New York, extending into Pennsylvania and in the Onondaga section of New York State;

(7) Type 54 tobacco, that type of cigar-leaf tobacco commonly known as southern Wisconsin cigar-leaf or southern Wisconsin binder type, produced principally south and east of the Wisconsin River; or

(8) Type 55 tobacco, that type of cigar-leaf tobacco commonly known as Northern Wisconsin cigar-leaf or Northern Wisconsin binder type, produced principally north and west of the Wisconsin River; as classified in Service and Regulatory Announcement No. 118 (Part 30 of this title) of the Bureau of Agricultural Economics of the United States De-

partment of Agriculture, or all such types of tobacco as indicated by the context. Tobacco which has the same characteristics and corresponding qualities, colors, and lengths shall be treated as one type, regardless of any factors of historical or geographical nature which cannot be determined by an examination of the tobacco. The term "tobacco" shall include all leaves harvested, including trash.

§ 723.1013 *Extent of calculations and rule of fractions.* All acreage allotments shall be rounded to the nearest one-hundredth acre. The rule of fractions will be to round upward fractions of more than five-thousandths and to round downward fractions of five-thousandths or less (i. e., 0.0050 would be 0.00 and 0.0051 would be 0.01).

§ 723.1014 *Instructions and forms.* The director shall cause to be prepared and issued such forms as are necessary, and shall cause to be prepared such instructions for internal management as are necessary for carrying out §§ 723.1012 to 723.1028. The forms and instructions shall be approved by, and the instructions shall be issued by, the Deputy Administrator for Production Adjustment, Commodity Stabilization Service.

§ 723.1015 *Applicability of §§ 723.1012 to 723.1028.* Sections 723.1012 to 723.1028 govern the establishment of farm acreage allotments and normal yields for tobacco in connection with farm marketing quotas for the marketing year beginning October 1, 1959.

#### ACREAGE ALLOTMENTS AND NORMAL YIELDS FOR OLD FARMS

§ 723.1016 *Determination of 1959 preliminary acreage allotments for old farms.* (a) The 1959 preliminary acreage allotment for an old tobacco farm shall be the 1958 farm acreage allotment established for such farm, except that where a quantity of tobacco produced on a farm prior to 1958 and stored under bond pursuant to regulations to postpone or avoid payment of penalty has been reduced because the 1958 acreage allotment for such farm was not fully harvested, and the allotments for such farm for the three years 1956-58 were underharvested to the extent provided in paragraph (c) of this section, the 1959 preliminary acreage allotment for such farm shall be determined subject to the provisions of paragraph (c) of this section, if applicable.



(b) For the purpose of determining, under the provisions of paragraph (a) of this section, a 1959 preliminary acreage allotment for an old farm equal to the 1958 farm acreage allotment for such farm, the 1958 farm acreage allotment shall mean the 1958 farm acreage allotment determined for such farm prior to reduction, if any, because of a violation of the tobacco marketing quota regulations for a prior marketing year; and for the purpose of determining a 1959 preliminary acreage allotment for an old farm under the provisions of paragraph (c) of this section, the 1958 farm acreage allotment shall mean the 1958 farm acreage allotment established for such farm after any such reduction.

(c) The provisions of this paragraph shall be applied, if applicable, in the case of an old farm, only where a quantity of tobacco produced thereon prior to 1958 and stored under bond pursuant to regulations to postpone or avoid payment of penalty was reduced because the 1958 allotment was not fully harvested and acreage allotments were underharvested as provided in this paragraph. If the harvested acreage (as that term is explained in subparagraphs (1), (2) and (3) of this paragraph) of cigar-binder or cigar-filler and binder tobacco on such old farm in each of the three years 1956-58 was less than 75 percent of the farm acreage allotment for each of such respective years, the 1959 preliminary allotment for such farm shall be the larger of the largest acreage of tobacco harvested on the farm in any one of such three years, or the average acreage of tobacco harvested on the farm in the five years 1954-58: *Provided*, That any such 1959 preliminary allotment shall not exceed the 1958 farm acreage allotment or be less than 0.01 acre.

(1) For the purpose of this paragraph, the 1956 harvested acreage shall have the meaning and include the acreage as provided in § 723.816 (b) (tobacco marketing quota regulations for the 1957-58 marketing year (21 F. R. 7202)); the 1957 harvested acreage shall have the meaning and include the acreage as provided in § 723.916 (c) (tobacco marketing quota regulations for the 1958-59 marketing year (22 F. R. 4351, 8127; 23 F. R. 135, 638)); and the 1958 harvested acreage shall include the acreage on the farm applicable to the kind of tobacco involved which is determined as provided in subparagraphs (2) and (3) of this para-

graph to be devoted or diverted in 1958 to participation in the acreage reserve program or conservation reserve program.

(2) The tobacco acreage devoted in 1958 to the acreage reserve program shall be the smallest of (i) the acreage reserve entered on the agreement, (ii) the measured acreage reserve, or (iii) the 1958 allotment minus the actual acreage devoted in 1958 to tobacco.

(3) The acreage diverted from allotment crops in 1958 to the conservation reserve program shall be the smallest of (i) the acreage determined to be in the conservation reserve at the regular rate, (ii) the reduction in soil bank base crops from the farm's soil bank base, or (iii) the amount by which the sum of all acreage allotments for the farm for crops for which there was a reduction in the quantity of excess commodity stored pursuant to the regulations to postpone or avoid payment of penalty because the 1958 allotments were not fully planted, or as to tobacco was not fully harvested, exceeds the sum of the acreage actually devoted to such allotment crops and the acreage reserve, if any, credited under subparagraph (2) of this paragraph to such crops. The crops involved will share pro rata in the acreage so determined on the basis of the respective reductions made in such crops. Such respective reductions will be the amount by which the 1958 allotment exceeds the sum of the acreage actually devoted to the crop and the acreage devoted to the acreage reserve.

(d) Notwithstanding the foregoing provisions of this section, no 1959 preliminary allotment or 1959 farm tobacco acreage allotment shall be determined for any farm that the county and State committee determine has been retired from agricultural production: *Provided*, That this paragraph shall not preclude the determination of a preliminary acreage allotment for an old farm returned to agricultural production, or for a farm for which an acreage allotment may be determined under the provisions of § 723.1020.

§ 723.1017 1959 old farm tobacco acreage allotment. The preliminary allotments calculated for all old farms in the State pursuant to § 723.1016 shall be adjusted uniformly so that the total of such allotments plus the acreage available for adjusting acreage allotments for old farms, correction of errors, and for allotments for overlooked old farms

pursuant to § 723.1018 shall not exceed the State acreage allotment.

§ 723.1018 *Adjustment of acreage allotments for old farms, correction of errors, and allotments for overlooked old farms.* Notwithstanding the limitations contained in § 723.1016, the individual 1959 farm acreage allotment heretofore established for an old farm may be increased if the county committee justifies such increase to the satisfaction of the State committee or its representative as being necessary to establish an allotment for such farm which is fair and equitable in relation to the allotments for other old farms in the community, on the basis of the past acreage of tobacco, making due allowances for drought, flood, hail, other abnormal weather conditions, plant bed, and other diseases; land, labor and equipment available for the production of tobacco; crop rotation practices; and the soil and other physical factors affecting the production of tobacco. The acreage available in the State for increasing allotments as above described under this section, correction of errors, and providing acreage allotments for overlooked farms shall not exceed in the case of cigar-binder (types 51 and 52) tobacco one percent of the total acreage allotted to all farms in the State for the production of such kind of tobacco for the 1958-59 marketing year, and shall not exceed in the case of cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco 4 percent of the total acreage allotted to all farms in the State for the production of such kind of tobacco for the 1958-59 marketing year.

§ 723.1019 *Reductions of acreage allotment for violation of the marketing quota regulations for a prior marketing year.* (a) If tobacco was marketed or was permitted to be marketed in any marketing year as having been produced on the acreage allotment for any farm for the 1958-59 or a prior marketing year which in fact was produced on a different farm, the 1959 acreage allotments established for both such farms shall be reduced, as provided in this section, except that such reduction for any such farm shall not be made if the county and State committees determine that no person connected with such farm caused, aided, or acquiesced in such marketing.

(b) The operator or any producer on the farm shall have furnished complete and accurate proof of the disposition of all tobacco produced on the farm in 1958

or a prior year and in the event of failure to furnish such proof, the 1959 acreage allotment for the farm shall be reduced as provided in this section.

(c) If any producer has filed, or aided or acquiesced in the filing of, any false report with respect to the acreage of tobacco grown on the farm in 1958 or a prior year, the 1959 acreage allotment for the farm shall be reduced as provided in this section.

(d) If in the calendar year 1958 more than one crop of tobacco was grown from (1) the same tobacco plants, or (2) different tobacco plants, and is harvested for marketing from the same acreage of a farm, the acreage allotment next established for such farm shall be reduced by an amount equivalent to the acreage from which more than one crop of tobacco was so grown and harvested. In case the allotment is transferred through a State pool to another farm under § 723.1020 before the allotment reduction can be made effective on the farm on which the tobacco was grown, the allotment first established for the farm to which it is so transferred shall be reduced as described above in this paragraph.

(e) Any reduction made with respect to a farm's 1959 acreage allotment for any of the reasons heretofore provided in this section shall be made no later than May 1, 1959. If the reduction cannot be made by such dates, the reduction shall be made with respect to the acreage allotment next established for the farm but no later than by a corresponding date to be specified in a subsequent year: *Provided, however*, That no reduction shall be made under this section in the 1959 acreage allotment for any farm for a violation described in paragraph (a), (b), (c), or (d) of this section if the acreage allotment for such farm for any prior year was reduced on account of the same violation.

(f) The amount of reduction in the 1959 allotment for a violation described in paragraph (a), (b), or (c) of this section shall be that percentage which the amount of tobacco involved in the violation is of the respective farm marketing quota for the farm for the year in which the violation occurred. Where the amount of such tobacco involved in the violation equals or exceeds the amount of the farm marketing quota, the amount of reduction shall be 100 percent. The quantity of tobacco deter-

mined by the county committee to have been falsely identified, or produced on acreage falsely omitted from an acreage report as filed, or for which the county committee determines that proof of disposition has not been furnished, shall be considered as the amount of tobacco involved in the violation. If the actual quantity of tobacco falsely identified, or produced on acreage falsely omitted from an acreage report, or for which proof of disposition has not been furnished is known, such quantity shall be determined by the county committee to be the amount of tobacco involved in the violation. If the actual quantity of tobacco produced on acreage falsely omitted from an acreage report or for which proof of disposition has not been furnished is not known, the county committee shall determine such quantity in the following manner, and if the actual total production of tobacco on the farm is not known, the county committee shall determine such total production and the farm marketing quota in the following manner. The yield per acre and the total production of tobacco on the farm shall be determined by taking into consideration the condition of the tobacco crop during production, if known, and the actual yield per acre of tobacco on other farms in the locality on which the soil and other physical factors affecting the production of tobacco are similar: *Provided*, That the determination of the total production of tobacco on the farm shall not exceed the harvested acreage of tobacco on the farm multiplied by the average actual yield on farms in the locality on which the soil and other physical factors affecting the production of tobacco are similar. The yield per acre and the total production of tobacco for the farm as so determined by the county committee shall be deemed to be the actual yield per acre and the actual total production of tobacco for the farm. The actual yield per acre of tobacco on the farm as so determined by the county committee multiplied by the farm acreage allotment shall be deemed to be the actual production of the acreage allotment and the farm marketing quota. Where the actual quantity of tobacco for which proof of disposition has not been furnished is not known, such quantity shall be determined by the county committee to be the quantity of tobacco remaining after deducting from the total production of tobacco on the farm determined as aforesaid, the quantity of

tobacco for which proof of disposition has been furnished. Where the actual quantity of tobacco produced on acreage falsely omitted from an acreage report is not known, such quantity shall be determined by the county committee to be the quantity resulting from multiplying the yield per acre for the farm determined as aforesaid by the acreage falsely omitted from the acreage report as filed.

(g) If the farm involved in the violation is combined with another farm prior to the reduction, the reduction shall be applied as heretofore provided in this section to that portion of the allotment for which a reduction is required under paragraph (a), (b), (c) or (d) of this section.

(h) If the farm involved in the violation has been divided prior to the reduction, the reduction shall be applied as heretofore provided in this section to the allotments for the divided farms required to be reduced under paragraph (a) (b), (c) or (d) of this section.

(i) Producers of tobacco in the 1958-59 marketing year shall submit proof of disposition of tobacco and records and reports relative to the provisions of this section as set forth in § 723.952 of this part (Marketing Quota Regulations, 1958-59 marketing year, 1026 (Cigar-Binder and Cigar-Filler and Binder—58)-1).

§ 723.1020 *Reallocation of allotments determined for farms acquired by an agency having right of eminent domain or shifted from production of cigar-binder (types 51 and 52) tobacco and cigar-filler and binder (types 42, 43, 44, 53, 54 and 55) tobacco to production of shade-grown cigar leaf (type 61) wrapper tobacco.* (a) The determination of allotments for farms acquired by an agency having the right of eminent domain, the transfer of such allotments to a pool, and reallocation from the pool shall be administered as provided in § 719.12 of this chapter. The normal yield for each farm to which a reallocation is made as provided in this paragraph shall be determined as provided in § 723.1022 for determining normal yields for reconstituted farms.

(b) The allotment determined or which would have been determined for any land which has been used for the production of cigar-binder (types 51 and 52) tobacco or cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco

but which will be used in 1959 for the production of cigar wrapper (type 61) tobacco shall be placed in a State pool and shall be available to the State committee to establish allotments pursuant to § 723.1026 (a).

**CODIFICATION:** In § 723.1020, the section headnote and paragraph (a) were amended to read as set forth above and in paragraph (b) the reference "§ 723.1026 (b)" was changed to "§ 726.1026 (a)" by 1023—Allotments—(Cigar-Binder, Cigar-Filler and Binder, Cigar-Filler and Binder—59)—1, 23 F. R. 7878, Oct. 11, 1958.

§ 723.1021 *Farms divided or combined.* Allotments for farms reconstituted for 1959 shall be determined in accordance with Part 719 of this chapter.

§ 723.1022 *Determination of normal yields for old farms.* The county committee will determine a normal yield for each farm for which a 1959 tobacco acreage allotment was established by first obtaining the average of the two highest yields for such farms in the three years 1951, 1953, and 1954, or if tobacco was grown in less than two of such years the yield for the one year will be used in lieu of the average yield of two years. If in any case the preliminary yield so obtained exceeds 125 percent or is less than 80 percent of the county check yield (to be ascertained as hereinafter provided), such preliminary yield shall be adjusted to the applicable percentage, and any preliminary yield may be also adjusted for drought, flood or other abnormal conditions affecting the yield, but the yield so adjusted shall not exceed 125 percent or be less than 80 percent of the county check yield. If the total production extension for all farms in the county in 1956 obtained by multiplying the 1956 acreage allotment for each farm by the preliminary yield so computed for such farm varies more than one percent from the total production extension obtained by multiplying the county check yield by the total of all allotted tobacco acreage in the county for 1956, the preliminary yield for each farm will then be factored to the extent required to eliminate any variance. Subject to the approval of the State committee, the yields may be further factored to provide a yield for each farm in the county that is not more than 125 percent or less than 80 percent of the county check yield. The yield for the farm thus determined shall be the normal yield for the farm: *Provided*, That if the farm has been re-

constituted since 1950, the normal yield for such farm shall be determined by the county committee by appraisal taking into consideration available yield data for the land involved and yields established as heretofore provided in this section for similar farms in the community. The State committees or their representatives are authorized to make changes or require changes to be made in farm preliminary normal yields per acre which are necessary to result in a normal yield that is determined in accordance with this section, whether or not a producer questions or appeals the normal yield as determined for the farm to the State committee; however, such changes shall not be permitted to result in a weighted yield per acre for all farms in the county that is in excess of 102 percent of the county check yield. The county check yield shall be determined by the Deputy Administrator on the basis of the average of the two highest yields in the county in the three years 1951, 1953, and 1954, adjusted where necessary so as to conform with and, except for factoring, to not exceed 125 percent or be less than 80 percent of the State check yield; such State check yield to be determined by the Deputy Administrator on the basis of the average of the two highest yields in the State in the three years 1951, 1953, and 1954, but not to exceed 125 percent or be less than 80 percent of the average of the two high year averages of all States which grow the type of tobacco indicated in each of the following groups: (a) Types 51-52, (b) Types 42-44, and (c) Types 54 and 55.

#### ACREAGE ALLOTMENTS AND NORMAL YIELDS FOR NEW FARMS

§ 723.1023 *Determination of acreage allotments for new farms.* (a) The acreage allotment, other than an allotment made under § 723.1020, for a new farm shall be that acreage which the county committee determines is fair and reasonable for the farm, taking into consideration the past tobacco experience of the farm operator, the land, labor, and equipment available for the production of tobacco; crop rotation practices; and the soil and other physical factors affecting the production of tobacco: *Provided*, That the acreage allotment so determined shall not exceed 75 percent of the average of acreage allotments established for two or more but not to exceed five old farms in the community which are similar with respect to land,

labor and equipment available for the production of tobacco, crop rotation practices, and the soil and other physical factors affecting the production of tobacco: *And provided further*, That if the acreage planted to tobacco on a new tobacco farm is less than the tobacco acreage allotment otherwise established for the farm pursuant to this section, such allotment shall be automatically reduced to the acreage planted to tobacco on the farm.

(b) Notwithstanding any other provisions of this section, a tobacco acreage allotment shall not be established for any new farm unless each of the following conditions has been met:

(1) The farm operator shall have had experience in the kind of tobacco for which an allotment is requested and such experience shall consist of the preparation of the plant bed and extend through preparation of the tobacco for market: *Provided*, That production of tobacco on a farm in 1955, 1956, 1957, or 1958 for which in accordance with applicable law and regulations no 1955, 1956, 1957, or 1958 tobacco acreage allotment respectively was determined shall not be deemed such experience for any producer.

(2) The farm covered by the application shall be the only farm owned or operated by the farm operator for which a cigar-binder (types 51 and 52) tobacco, or cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco acreage allotment is established for the 1959-60 marketing year.

(3) The farm or any portion thereof shall not have been a part of another farm during any of the five years 1954-58 for which an old farm tobacco acreage allotment was determined, except that this provision shall not of itself make a farm ineligible for a new farm allotment (i) if it is the same farm or a portion of the same farm for which an old farm allotment was cancelled since 1953 due to no tobacco being produced thereon for five years, or (ii) if it was a portion of an old farm during any of the years 1954-58 and at time of division of the farm contained cropland but received no part of the allotment due (a) to division of the allotment on a contribution basis, or (b) to agreement and approval of all interested parties as provided in regulations governing divisions and combinations of allotments.

(c) The acreage allotments established as provided in this section shall be subject to such downward adjustment as is necessary to bring such allotments in line with the total acreage available for allotment to all new farms. One percent of the 1959 national marketing quota shall, when converted to an acreage allotment by the use of the national average yield, be available for establishing allotments for new farms. The national average yield shall be the average of the several State yields used in converting the State marketing quotas into State acreage allotments.

§ 723.1024 *Time for filing application.* An application for a new farm allotment shall be filed with the ASC county office not later than March 11, 1959, unless the farm operator was discharged from the armed services subsequent to December 31, 1958, in which case such application shall be filed within a reasonable period prior to planting tobacco on the farm.

§ 723.1025 *Determination of normal yields for new farms.* The normal yield for a new farm shall be that yield per acre which the county committee determines by appraisal, taking into consideration available yield data for the land involved and yields established as provided in § 723.1022 for similar farms in the community.

#### MISCELLANEOUS

§ 723.1026 *Determination of acreage allotments and normal yields for farms shifted from production of shade-grown cigar-leaf (type 61) wrapper tobacco to production of cigar-binder (types 51 and 52) tobacco or cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco.*

(a) Notwithstanding the foregoing provisions of §§ 723.1012 to 723.1025, an allotment may be established by the county and State committees for a farm which in 1958 was producing shade-grown cigar-leaf (type 61) wrapper tobacco but on which cigar-binder (types 51 and 52) tobacco or cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco will be produced in 1959. The acreage used for such purpose will be limited to that placed in the State pool pursuant to § 723.1020 (b). Any allotment established pursuant to this paragraph shall, to the extent of available acreage in such pool, be determined by the county and State committees so as to be fair and equitable in relation to the allotments for other old farms in the

community, on the basis of the past acreage of tobacco, making due allowances for drought, flood, hail, other abnormal weather conditions, plant bed, and other diseases; land, labor, and equipment available for the production of tobacco; crop rotation practices; and the soil and other physical factors affecting the production of tobacco. Allotments established pursuant to this paragraph are eligible for consideration for adjustments under § 723.1018.

(b) The normal yield for any such farm under paragraph (a) of this section shall be that yield per acre which the county committee determines by appraisal, taking into consideration available yield data for the land involved and yields established as provided in § 723.1022 for similar farms in the community.

**CODIFICATION:** In § 723.1026, the section headnote was amended, paragraph (a) was deleted, paragraphs (b) and (c) were redesignated (a) and (b), respectively, and in paragraph (b), as redesignated, the phrase "or (b)" was deleted by 1023—Allotments—(Cigar-Binder and Cigar-Filler and Binder—59)—1, 23 F. R. 7878, Oct. 11, 1958.

§ 723.1027 *Approval of determinations made under §§ 723.1012 to 723.1026, and notices of farm acreage allotments.*  
(a) All farm acreage allotments and yields shall be determined by the county committee of the county in which the farm is located and shall be reviewed by or on behalf of the State committee and the State committee may revise or require revision of any determinations made under §§ 723.1012 to 723.1026. All acreage allotments and yields shall be approved by or on behalf of the State committee and no official notice of acreage allotment shall be mailed to a grower until such allotment has been approved by or on behalf of the State committee.

(b) An official notice of the farm acreage allotment and marketing quota shall be mailed to the operator of each farm shown by the records of the county committee to be entitled to an allotment. The notice to the operator of the farm shall constitute notice to all persons who as operator, landlord, tenant, or sharecropper are interested in the farm for which the allotment is established. All such notices shall bear the actual or facsimile signature of a member of the county committee. The facsimile signature may be affixed by the county committeemen or an employee of the county office. Insofar as practical all allotment

notices shall be mailed in time to be received prior to the date of any tobacco marketing quota referendum. A copy of such notice, containing thereon the date of mailing, shall be maintained for not less than 30 days in a conspicuous place in the county office and shall thereafter be kept available for public inspection in the office of the county committee. A copy of such notice certified as true and correct shall be furnished without charge to any person interested in the farm in respect to which the allotment is established.

(c) If the records of the county committee indicate that the allotment established for any farm may be changed because of (1) a violation of the marketing quota regulations for a prior marketing year, (2) removal of the farm from agricultural production, (3) division of the farm, or (4) combination of the farm, no notice of such allotment shall be mailed until the proper allotment is determined for the farm by the county committee with the approval of the State committee: *Provided*, That the notice of allotment for any farm shall, insofar as practicable, be mailed no later than May 1, 1959.

(d) If the county committee determines with the approval of the State administrative officer that the official written notice of the farm acreage allotment issued for any farm erroneously stated the acreage allotment to be larger than the correct allotment, and the county committee also determines that the error was not so gross as to place the operator on notice thereof, and that the operator, relying upon such notice and acting in good faith, planted an acreage of tobacco in excess of the correct farm acreage allotment, the acreage allotment shown on the erroneous notice shall be deemed to be the tobacco acreage allotment for the farm for all purposes in connection with the tobacco marketing quota program for the 1959-60 marketing year, provided the acreage of tobacco harvested from the farm is not in excess of the acreage shown on the erroneous notice. In the event the acreage of tobacco harvested exceeds the farm acreage allotment shown on the erroneous notice, the acreage allotment for the farm as correctly determined and shown on a revised notice of farm acreage allotment and marketing quota shall be the tobacco acreage allotment for the farm for all purposes in connection with

the tobacco marketing quota program for the 1959-60 marketing year.

§ 723.1028 *Application for review.* Any producer who is dissatisfied with the farm acreage allotment and marketing quota established for his farm may, within fifteen days after mailing of the official notice of the farm acreage allotment and marketing quota, file application in writing with the ASC county office to have such allotment reviewed by a review committee. The procedures governing the review of farm acreage allotments and marketing quotas are contained in the regulations issued by the Secretary (Part 711 of this chapter) which are available at ASC county office.

NOTE: The record keeping and reporting requirements of these regulations have been approved by and subsequent reporting requirements will be subject to the approval of the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

## Part 725—Burley, Flue-Cured, Fire-Cured, Dark Air-Cured, and Virginia Sun-Cured Tobacco<sup>1</sup> [Revised]

NOTE: Following are FEDERAL REGISTER citations to proclamations, determinations, and regulations, issued for the program year indicated, which are not included herein: 1949: 14 F. R. 55; 14 F. R. 2977. 1950: 14 F. R. 3737; 14 F. R. 5037; 14 F. R. 5253; 14 F. R. 6714; 14 F. R. 7703; 15 F. R. 51; 15 F. R. 1219; 15 F. R. 8608. 1951: 15 F. R. 5871; 15 F. R. 8216; 15 F. R. 8853; 16 F. R. 1931; 16 F. R. 4920. 1952: 16 F. R. 9347; 16 F. R. 12169; 16 F. R. 12927; 17 F. R. 4779. 1953: 17 F. R. 6022; 17 F. R. 6063; 17 F. R. 6809; 17 F. R. 7614; 17 F. R. 10758; 17 F. R. 11189; 17 F. R. 11737; 18 F. R. 172; 18 F. R. 3103. 1954: 18 F. R. 3997; 18 F. R. 7653; 19 F. R. 3143; 19 F. R. 4263. 1955: 19 F. R. 3549; 19 F. R. 7151; 19 F. R. 7929; 20 F. R. 2299; 20 F. R. 4106; 20 F. R. 4252; 20 F. R. 4277. 1956: 20 F. R. 4571; 20 F. R. 4789; 20 F. R. 6066; 20 F. R. 6545; 20 F. R. 8846; 20 F. R. 9848; 21 F. R. 1577; 21 F. R. 4502; 21 F. R. 6859. 1957: 21 F. R. 6803; 21 F. R. 9370; 21 F. R. 9398; 22 F. R. 4; 22 F. R. 606; 22 F. R. 4064; 22 F. R. 6909.

### Subpart—1958

#### PROCLAMATIONS AND DETERMINATIONS.

Sec.  
725.902 Findings and determinations with respect to the national marketing quota for flue-cured tobacco for the marketing year beginning July 1, 1958.

<sup>1</sup> Headnote amended, 21 F. R. 4502, June 23, 1956.

Sec.  
725.904 Findings and determinations with respect to the national marketing quota for burley tobacco for the marketing year beginning October 1, 1958.  
725.906 Findings and determinations with respect to the national marketing quota for fire-cured (type 21) tobacco for the marketing year beginning October 1, 1958.  
725.907 Findings and determinations with respect to the national marketing quota for fire-cured (types 22, 23 and 24) tobacco for the marketing year beginning October 1, 1958.  
725.908 Findings and determinations with respect to the national marketing quota for dark air-cured tobacco for the marketing year beginning October 1, 1958.  
725.909 Findings and determinations with respect to the national marketing quota for Virginia sun-cured tobacco for the marketing year beginning October 1, 1958.  
725.910 Proclamation of the results of the fire-cured tobacco and dark air-cured tobacco marketing quota referenda for the three-year period beginning October 1, 1958.

#### MARKETING QUOTA REGULATIONS, 1958-59 MARKETING YEAR—PART I

##### GENERAL

725.912 Definitions.  
725.913 Extent of calculations and rule of fractions.  
725.914 Instructions and forms.  
725.915 Applicability of §§ 725.912 to 725.928.

##### ACREAGE ALLOTMENTS AND NORMAL YIELDS FOR OLD FARMS

725.916 Determination of 1958 preliminary acreage allotments for old farms.  
725.917 1958 old farm tobacco acreage allotment.  
725.918 Adjustments of acreage allotments for old farms, corrections of errors made in acreage allotments for old farms, and allotments for overlooked old farms.  
725.919 Reduction of acreage allotment for violation of the marketing quota regulations for a prior marketing year.  
725.920 Reallocation of allotments released from farms removed from agricultural production.  
725.921 Farms divided or combined.  
725.922 Determination of normal yields for old farms.

##### ACREAGE ALLOTMENTS AND NORMAL YIELDS FOR NEW FARMS

725.923 Determination of acreage allotments for new farms.  
725.924 Time for filing application.  
725.925 Determination of normal yields for new farms.